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EXAMINATION OF MINORITY BUSINESS PARTICIPATION IN FEDERAL PROGRAMS IN ALASKA

HEARINGS

BEFORE THE

TASK FORCE ON MINORITY ENTERPRISE

OF THE

SUBCOMMITTEE ON GENERAL OVERSIGHT AND MINORITY ENTERPRISE

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

ANCHORAGE, ALASKA, JULY 16 AND 17, 1980

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EXAMINATION OF MINORITY BUSINESS PARTICIPATION IN FEDERAL PROGRAMS IN ALASKA

WEDNESDAY, JULY 16, 1980

HOUSE OF REPRESENTATIVES, TASK FORCE ON MINORITY ENTERPRISE OF THE SUBCOMMITTEE ON GENERAL OVERSIGHT AND MINORITY ENTERPRISE, COMMITTEE ON SMALL BUSINESS,

Anchorage, Alaska.

The task force met, pursuant to notice, at 9:30 a.m., in room F-278, Federal Building, Anchorage, Alaska, Hon. Parren J. Mitchell (chairman of the task force) presiding.

OPENING STATEMENT OF TASK FORCE CHAIRMAN MITCHELL

Mr. MITCHELL. Good morning, ladies and gentlemen.

Thank you for being here.

My name is Parren Mitchell, Member of the U.S. House of Representatives.

In addition to my other committee assignments, I serve on the House Small Business Committee, on the Subcommittee on General Oversight and Minority Enterprise.

In addition to that, I chair a separate task force of the House Small Business Committee on Minority Enterprise.

I want to welcome all of you to the first day of 2 days of hearings by this House Small Business Committee's task force on Minority Enterprise. We are pleased to be able to bring this task force to the State of Alaska.

As you know, for many years I have supported the need for economic parity for minority businesses. Within the last few years there has been some progressive development in this area. Notwithstanding that progressive development, we have a long way to go before we reach the goal of economic parity.

Today's hearing and the one tomorrow are the first of a series that this task force is planning to conduct across the United States. In these hearings we will hear from local minority businesses. In addition, testimony will be solicited from Federal employees who are responsible for the field operations of Federal agencies.

The central theme underlying these hearings is the implementation of Public Law 95-507 and related Federal minority business programs.

As you know, as some of you have been to Washington to testify at congressional hearings, it is customary to hold congressional hearings in Washington, D.C. Of course, policy issues can be ad-

dressed by those in Washington who have such responsibility, but policymaking is only one aspect of goal achievement.

By and large, the success or failure of our laws is directly related to the level of enforcement by Federal employees in the field. Because of a paucity of congressional oversight field hearings, many Federal field employees are not sensitive to the congressional intent of legislation. In a likely manner, some of these individuals do not understand the critical function of Congress oversight function.

By way of illustration, when it was reported that I was going to have hearings here, someone said to me, "Well, the only persons you will hear from will be the troublemakers who are not satisfied with what is going on."

I don't believe that. I think that shows a lack of sensitivity on the part of local agencies, if they would issue a statement or make a statement to that effect.

Again, further digressing from my testimony, Mr. Major Clark, who is my chief counsel on the House Small Business Committee, went with Congressman Leach to Louisiana, Shreveport, La., and field hearings were conducted there.

It was amazing some of the things that came out in these field hearings. By way of illustration, one witness who was a businessman, or wanted to be one, said he went to the Small Business Administration and they advised him, well, we don't make loans; that is not the function of the Small Business Administration.

While there, based on the information that he received, the agencies in Shreveport, La., had no idea that there was such a thing as Public Law 95-507. When they were questioned about it, they said, "We never heard of it."

Those are two good illustrations as to why we have got to get out where the people and the agencies are to conduct hearings.

There is not adequate attention to the flow-down process of policies, rules, and regulations. The end result is a void between the enactment and the implementation of laws. As some of you know, as a principal author of Public Law 95-507, I am receiving complaints from across the country from minority businesses. These complaints clearly indicate that there continues to be a void in the implementation of Public Law 95-507.

Concomitantly, the House Small Business Subcommittee on General Oversight and Minority Enterprise, of which I am a member, has documented that as of February 1980, agencies have nearly $8 billion contracts in violation of Public Law 95-507. Even though we have received commitments to correct these deficiencies, I am not yet convinced that we are witnessing the full implementation of this law that is so vital to the survival of the minority business community.

Again, digressing briefly from my opening statement, there will be a press conference in Washington, July 21, at 10 o'clock. One of the things that will be announced is that I will on that date file suits against the General Services Administration for failing to implement Public Law 95-507.

I remain convinced that there are several things we must do in order to make the agencies comply with the law. I don't intend to

take up a lot of your time in an opening statement, but there is one other development that you ought to be familiar with.

In trying to make agencies comply with the law, I will use my own individual lawsuits, and I will use the legislative process. When the Congress returns on July 21 from its district work period, and when the Agriculture Committee appropriation bill is up, I shall have an amendment to reduce the appropriation to the Department of Agriculture by 5 percent.

I will introduce that amendment. I hope it will be passed and I think it will be passed. I will specifically indicate that I want that 5 percent cut from procurement in the Department of Agriculture, because the Department of Agriculture has not been complying with Public Law 95-507, and our minority businesses have not been getting their share; therefore, why not just cut it out of their procurement practice all together.

In addition to receiving testimony from minority businesses on their problems in garnering contracts under Public Law 95-507, today's hearing will also focus on the Alaska-Canada natural gas transportation project. This construction development will cost over $24 billion. While most of the construction money is from private sources, the Federal Government is required to issue permits, licenses, and right-a-ways.

To this end, Federal regulations have been promulgated to insure adequate minority business participation in the construction of the project. As many of you in this room know, you and I have had very negative experiences with the construction of the pipeline. That was a very bitter and unpleasant episode for us, and I hope that all of us are committed, that minorities will participate in the gasline, that we will not have minimal participation as happened with the pipeline.

This task force is planning to monitor very closely the contracts awarded to minority businesses. Today we have some 20 minority businesses who are scheduled to testify. Indeed, I am eager to learn of your problems and successes in moving into the mainstream of the American economic system.

Senator Gravel will be able to join us briefly sometime later on today, and I am delighted about that.

This State, it seems to me, offers just magnificent opportunities for advancement of minority business enterprises. There is so much going on that it seems it is very fearful ground for us, and that is why I wanted to start these hearings here in Alaska, which offers perhaps the best climate for the development of minority business if there is cooperation on the part of the Federal agencies and the private sector.

With that introductory statement, I would like to introduce to my right Major Clark, whom many of you know, who is my counsel on the House Small Business Committee and specifically the counsel assigned for the Task Force on Minority Enterprises.

I am going to recommend, in light of the number of witnesses that we have, we take them in panels of three and proceed on that basis.

Before we start with the witnesses, are there any questions in terms of procedures or the objectives that we are seeking to accomplish?

READEX FICHE

Hearing none, in my usual democratic manner, I will call the first three witnesses, if I may:

Mr. Hank Harris from City Wide Ventures. Is he present?

Mr. Tommie Cleveland; he will be here later.

Mr. Charles Hudson from C. H. Concrete. Take a seat, please.

Mr. Louis Overstreet, Contra Tech, and is Mr. Jim Lockhart here?

Mr. LOCKHART. Yes.

Mr. MITCHELL. Thank you very much for being here.

I will ask that you be sure that our official recorder for these hearings has your full name and your title and the company you represent.

In addition to that, if you have written testimony, and I think all three of you do, I have seen two copies, what we will do for these witnesses and all others, if you have written testimony we will simply submit that entire testimony for the record. Then you can have a choice of either reading the entire testimony or speaking to the highlights from your testimony.

Those of you who do not have your written testimony available as yet, I would urge that you get it to me as quickly as possible, hopefully before I leave here on Friday morning at 7 o'clock to return to Washington.

I would like to have the written testimony to take with me; so if you do not have it, please make every effort to do so.

Mr. Hudson, may we lead off with your testimony?

There is a mike which we may have to use.

PANEL CONSISTING OF: CHARLES HUDSON, C. H. CONCRETE & CONSTRUCTION; LOUIS OVERSTREET, PRESIDENT, CONTRA TECH; AND JIMMIE LOCKHART, FLEMING ELECTRIC

TESTIMONY OF CHARLES HUDSON, C. H. CONCRETE & CONSTRUCTION

Mr. HUDSON. My name is Charles Hudson. I own C. H. Concrete & Construction. I have been in Anchorage for 20 years.

Mr. MITCHELL. May I interrupt? You might have to hold your mike up as you are talking.

Go ahead with your testimony but talk directly into that mike.

Mr. HUDSON. Thank you.

My name is Charles Hudson, owner of C. H. Concrete & Construction. I have been in Anchorage for 20 years and in business since 1966.

I don't have my statement here typed out right now, and I would really prefer to let Mr. Overstreet go on and let me testify tomorrow when I have all of my proper papers.

Mr. MITCHELL. Unfortunately, we will not be able to hear from you tomorrow, but what I can do is to put you on at a later time today, if you think your testimony might be typed by that time.

Mr. HUDSON. I think it would be more appropriate to be a little later.

Mr. MITCHELL. That will work out all right. The only reason I won't guarantee that you be on tomorrow is because tomorrow we are scheduled to hear witnesses from all the agencies. We will wait and put you on later today.

Mr. HUDSON. Two o'clock or something would be fine.

Mr. MITCHELL. I can't give you an exact time.
Mr. Overstreet, we will hear from you.

TESTIMONY OF LOUIS OVERSTREET, PRESIDENT, CONTRA TECH

Mr. OVERSTREET. Good morning, Chairman Mitchell, Attorney Clark; welcome to Alaska.

My name is Louis Overstreet. I am president of Contra Tech.

Congressman Mitchell, we were pleased to learn the Supreme Court recently upheld the right of Congress to establish set-asides. We are all aware of your dedicated efforts in shepherding the Public Works Act through Congress.

Also, thanks to the media for its coverage of these hearings both locally and national black media to include Black Enterprise magazine and the Washington Informer Newspaper.

I understand the purpose of your visit and this hearing to be one of discovery, specifically, compliance by Federal agencies and fund recipients with Public Law 95-507. My knowledge, observations and personal experience relative to the implementation by the lead agency, the SBA, and commitment by other Federal agencies have not been positive ones.

Since moving to Alaska and adopting it as my home, I have been active in civic organizations. For the last year, I have been involved professionally in attempting to provide technical assistance to minority businesses seeking construction contracting opportunities with the State.

Funds for the program came from passed-through moneys of the Federal Highway Administration to the State's department of transportation. Our efforts at best have only been marginally successful. Please indulge me, I do not intend to stray too far from the purpose of this hearing.

However, I do feel background information on the depth of the problem across all levels of government, especially in light of the fact municipal and State levels of government receive substantial Federal moneys to fund a number of projects may be of benefit.

The lack of participation by MBE's of State-sponsored projects was so acute that the State human rights commission filed a suit. Out of the suit involved a goal and timetable agreement. Similarly, and as belated, the municipality enacted an MBE ordinance.

Mr. Charles Leviege, Director of Office of Equal Opportunity is to be commended for his work in getting an ordinance on the books.

While these acts can most certainly be considered positive, I am doubtful of their potential to measurably improve MBE participation on government-sponsored projects; primarily because there hasn't been a corresponding commitment for the funding of support units, that will insure success.

Cases in point, the State agreement contains goals of $100 million over the next several years for MBE utilization. However, the agreement only makes a commitment for only one full-time staff person to monitor these activities. This person also has the internal responsibility for EEO for the Department's Anchorage office.

This is ridiculous, and is not even a token gesture by a department that has 3,000 employees and a half billion dollar budget. The municipality combines the duties of EEO, contract compliance and

MBE utilization. It is under one roof and provides only a limited staff to monitor all these activities.

On the Federal level a recent newspaper article outlined the fact that the Federal Government through its various agencies will be doing over $400 million worth of contracting work in the State this year. The Federal Office of Contract Compliance in DOL has only three staff people. The third person was added after some community people went out and got over 500 signatures in 1½ days demanding additional staffing for this office.

Mr. Joe Revere did most of the work and it is a tragedy that to this day he has been unable to find a job.

One final note of concern prior to relating specifically to the concerns I have with the SBA. It should be noted that HUD is in the process of supporting a decision by the Alaska State Housing Authority, using Federal moneys, to award a $3 million housing construction project resulting from an RFP for a design/build proposal to a white contractor who just completed a similar project for $1 million for the authority on which he did not have any significant minority utilization.

This decision could very well be the thing that destroys all the good will that a number of concerned people have been trying to foster.

Concerning the SBA, my interaction with them in attempting to gain 8(a) status has been a nightmare of inordinate delays, misleading representations and then rejection. If I allowed my mind to fall prey to paranoia, given my experience and observations, I would perceive the SBA district office of engaging in a conspiracy against black businesses in areas other than janitorial certification.

When we first made our inquiry about the 8(a) program in October 1977, we did so with the knowledge of the marketplace that indicated there would be an increase in the design/construct type of project in the future. This type of contract enables contracting entities to get more for their construction dollar during these highly inflationary times. Thus we wanted to develop a business plan to take advantage of this forecasted trend.

My partner stopped by the SBA office to discuss our concepts and business development plans for a design/construct company. Mr. Don Strain of the SBA stated while our education backgrounds were adequate, which to me represents a classic understatement as my partner has an undergraduate degree in metallurgical engineering and a masters in business administration.

I hold a bachelor and masters degrees in civil engineering and I am a registered professional engineer in the States of Ohio, Pennsylvania, Nevada, Washington, and Alaska. These marginal academic credentials notwithstanding, he stated before we could receive an 8(a) application we would have to associate with a majority person who could provide bonding capability.

To comply, we entered into such an agreement and obtained the letter shown as exhibit I, dated December 1977, which will be entered into the record, at which time we received the voluminous 8(a) paperwork. The application was completed on January 23, 1978, or so we thought.

With your continued indulgence, I would like to read excerpts from two letters, one addressed to me from the SBA dated Febru-

ary 12, 1979, exhibit II, a full year after the submission of our application, and the other dated April 13, 1979, addressed to U.S Senator Ted Stevens.

The excerpts support my allegation made earlier that there has been considerable misrepresentation as to how our application was being processed.

Mr. Louis Overstreet: Your original application was submitted to the Anchorage 8(a) Review Board during the last week of September 1978. The application was accepted and forwarded to our Seattle Regional Office for their approval. At that time, Seattle Regional Office was the decisionmaking level. Since that time, changes have occurred and the decisionmaking level is now in Washington, D. C.

Dear Senator Stevens: The following is in response to your recent telephone inquiry concerning the Contra-Tech Inc. 8(a) application.

The original application dated January 1978 was only partially completed when it was first submitted. The amended application was resubmitted May 8, 1978. On July 24, 1978, the Anchorage district office reviewed the application. The application was submitted to the Regional Office with a positive recommendation.

It should be noted, there is a difference of 60 some days in what they report to me and what they report to a U.S. Senator. The person who made the misrepresentations in the letters, I do not feel is in any way responsible for the mess at SBA. In fact, he is probably the only "dude" trying to do a decent job with the 8(a) program. It is the higher-ups that are stymieing black efforts.

As a note, we made a request to have our file available for review under the Freedom of Information Act on April 4, 1979. We were informed that our file was in Washington, D.C., being reviewed and that when it was returned we would be provided a copy. Since we were rejected in early August of 1979, I would like to think a package could find its way back to Anchorage in 11 months' time.

I made a verbal request referencing my earlier letter the week of June 17 and again the week of June 30. I received a call at noon yesterday, July 15, informing me I could pick up my copy, less than 21 hours before these hearings were to start.

Mr. MITCHELL. Have you picked it up?

Mr. OVERSTREET. No; I didn't.

As stated, our application was rejected in August 1979, a full 18 months after original submittal. Our suspicions of SBA became a reality when we reviewed their reason for rejecting us.

Quoting from their letter:

I regret to inform you that we have determined Contra-Tech, Inc., to be ineligible to participate in the Small Business Administration's 8(a) program.

We have concluded, after a detailed review of the documentations in your company's application, that:

1. The nondisadvantaged shareholder, Steve Cooper, is affiliated or associated with other businesses operating in the same or similar type of business, which is prohibited by current SBA policy.

2. At this time, SBA cannot provide the necessary management and technical assistance needed to assure the success of your firm in the private sector.

We appealed the ruling on August 8, 1979. In our letter of appeal we refer to exhibit V. Additionally, our worst fears in August were confirmed in an MBOC meeting in mid-November 1979, when a military base contracting officer, Mr. William Dudley, asked Mr. Tom Andreaola from the SBA why did not he qualify more 8(a) contractors, since the SBA were returning contracts stating they did not have anyone who could perform the work. Because I was in the room he did not reply and the conversation was dropped.

In your letter it was asked what kind of recommendations do I have to improve the situation. I recommend that it be recognized that there has been a black presence in Alaska for over 100 years.

I recommend that this longevity be our entitlement to have our aspirations realized and our frustrations minimized.

I recommend that wise men and women promote the understanding that all our destinies as personified in Alaska's destiny are inseparable.

I recommend that blind Frank Coxes of this world be blessed with vision to see that come what may, black folks are here to stay.

I recommend that while the Don Strains of this world design and build walls to constrain our progress, that our minority contractors construct steps for our success.

I recommend that it matters not how strait the gate, how charged with punishments the scrolls, we must be the masters of our fates and the captains of our unconquerable souls.

Thank you.

Mr. MITCHELL. Thank you very much, Mr. Overstreet.

I have a number of questions, but I would like to hear from our next witness who is at the table.

Do you have your written testimony?

TESTIMONY OF JIMMIE LOCKHART, FLEMING ELECTRIC

Mr. LOCKHART. No; I have a cover sheet of documented evidence.

Mr. MITCHELL. Are you prepared to testify today?

Mr. LOCKHART. I would highlight my testimony.

Mr. MITCHELL. Please identify yourself for our record, your name and company, and so forth.

Mr. LOCKHART. Good morning, Congressman Mitchell.

My name is Jimmie Lockhart. I have lived in Alaska since July 1946, some 34 years. Since being here I have gone in business and was quite instrumental in the 8(a) project in the beginning of the 90-percent bank participation.

I was instrumental in working with the National Association of Minority Contractors for approximately 5 years and working with the SBA program in Washington, D.C.

I believe that I was one of the second of minorities to receive a contract from SBA, perhaps in 1971 through approximately 1975. I think I had completed; they were finished with me.

However, our correspondence was all by written statements. I made up a cover sheet to note these items and which I intend to leave with you, Congressman.

As far as further testimony, I have not been able to receive any type of assistance at all from SBA for at least 6 years.

I would like to leave this with you, and I don't think that I should take up any more time at this time.

I am president of Fleming Electric. I was president at that time of J. D. L. General Contractors.

Mr. MITCHELL. Thank you very much. I would appreciate it if that record would be turned over to our reporter.

I want to interrupt the hearing as of this moment to introduce the Senator.

I don't have to do that; you know your Senator. You know him very well.

I am delighted he would take time to be here. He has compiled an enviable record in Washington as U.S. Senator. I can't think of a time when I have called on him or his office that he has not been of tremendous assistance.

Thank you for being here.

STATEMENT OF HON. MIKE GRAVEL, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. Thank you very much.

I am extremely grateful to you for coming back to Alaska and holding these hearings, because it is something that I have interfaced a great deal with the black community and their views with respect to the responsiveness or lack of responsiveness of the Federal Government.

Anyway, to get to the bottom of that is to hold this kind of a hearing, and I have already felt from our contacts with Congress back there that just the fact of our coming up here has caused reverberations and the simple fact of your interest is being felt, so from a hometown boy's point of view, we are real happy you are interested.

I will take as much time as I can to sit in and hear the testimony you are receiving. I have staff that has been here from the beginning and will be here monitoring your progress.

I want to personally thank you for your interest.

Mr. MITCHELL. I must confess it was a rather curious thing to me to learn that this would be a Small Business meeting conducted simultaneously, conducted at the time that we were going to have these hearings. We had no knowledge of it. It is going on downstairs. Maybe it is just a coincidence that took place.

I have a couple of questions, and I am certain that Major has some.

Mr. Lockhart, you did receive contracts under the 8(a) program?

Mr. LOCKHART. Yes; I did.

Mr. MITCHELL. How many did you receive altogether approximately?

Mr. LOCKHART. Approximately four.

Mr. MITCHELL. Do you presently have a contract under the 8(a) program?

Mr. LOCKHART. Oh, no.

Mr. MITCHELL. When is the last time that you had a contract under the 8(a) program?

Mr. LOCKHART. I believe it was back in 1973 or 1974. They dropped me from the program.

Mr. MITCHELL. Why were you dropped from the program?

Mr. LOCKHART. Adverse financial situation. I was denied bonding assistance by SBA, which is in my documentation.

Mr. MITCHELL. You were denied bonding assistance?

Mr. LOCKHART. Yes; and you had to have bonds to get projects, and I was denied the 90 percent at that point.

Mr. MITCHELL. At that time did the SBA have the waiver of bond provisions in 1974?

Mr. CLARK. They had the guarantee.

Mr. MITCHELL. I know under present law, 8(a), they can waive a bond condition. They did have the right to guarantee a certain amount of funding for your funding, is that correct?

Mr. CLARK. Yes.

Mr. MITCHELL. Did you put in a request for such a guarantee?

Mr. LOCKHART. Oh, yes; they did guarantee a couple of small bonds, but when it came down to, well, we had gotten into a little argument, Frank Cox and Don Strain and I, and ever since that time I was no longer with SBA, I was dropped like a hot potato.

Mr. MITCHELL. Can I ask what it was about?

Mr. LOCKHART. Concerning the inspection of a Federal building, I had a contract, I believe, it was around $70,000, $75,000, and in order to get it inspected, the inspector had to fly in from Oregon and Washington, and I had to stand by to meet him until he came in and inspected it.

This, at the time, cost me quite a bit of money, and then when he got here he nitpicked me, and we had quite a discussion about that.

Mr. MITCHELL. OK; you are still in business?

Mr. LOCKHART. Oh, yes.

Mr. MITCHELL. I know better than to ask this question, but I have to ask it. Is business going well?

Mr. LOCKHART. No.

Mr. MITCHELL. Why not?

Mr. LOCKHART. Last year we were low bidder on approximately $5.5 million; out of bidding, $12 million, we never got one contract from that.

Mr. MITCHELL. That was strictly private, not any government involvement?

Mr. LOCKHART. Oh, yes; it was both private, government, local, and Federal, mostly local government.

Mr. MITCHELL. But since the time that you were dropped, and I am quoting you, "like a hot potato," you have been able to maintain your business; is that correct?

Mr. LOCKHART. Yes.

Mr. MITCHELL. Showing a profit some years?

Mr. LOCKHART. Not too much of a profit.

Mr. MITCHELL. I wasn't going to ask you to specify.

Mr. LOCKHART. Through my manipulation I always make it somehow.

Mr. MITCHELL. The point I am trying to get at is, here you have a businessman who, based on your testimony, was summarily kicked out of the 8(a) program and yet you are still able to maintain your place, since 1975 when you were put out of the program, and this is now 1980. You have been going for 5 years without that kind of support from the 8(a)?

Mr. LOCKHART. Yes; and I was one of the EOLME lenders, loans. I was sued and this is a document for that. I was sued for that, and I was committed to pay some $288 per month, and I made a couple or two or three, and I have been able to skip around that because I couldn't afford to make them.

In the Federal court my attorney sold me down the river; the district attorney sold me down the river; Frank Cox sold me down the river; the FBI came out to arrest me, but they couldn't find enough grounds to do it.

They said that I threatened somebody over there and they had me watched, and so forth, by the police. Jimmie Lockhart could never ever get any type of assistance from Small Business Administration prior to that.

Mr. MITCHELL. Are all of those documents you are planning to turn over to me?

Mr. LOCKHART. I keep copies of everything. I will make copies and bring them back.

Mr. MITCHELL. Mr. Overstreet, with reference to your testimony I am very, very sympathetic with the problems that occurred at the State level. I have been having my own hassles at the State level in Maryland despite the fact we managed to get a set-aside law passed by the Maryland General Assembly.

There is still some difficulty. Some progress has been made but there is not very much we can do at a Federal hearing on this. I wanted to ask you about the HUD contract for $3 million. You said that that contract has been assigned to a majority white contractor?

Mr. OVERSTREET. It was recommended to award it to a white contractor.

Mr. MITCHELL. Under the provisions of 95-507, which is a law now signed into effect by the President, that contract is clearly covered under 95-507. There is a portion of that law that says any construction contract in excess of $1 million cannot be signed off by the agency, unless there is a mandated plan for the significant involvement of minority business.

Now, do you have any personal knowledge of the extent and degree to which that particular HUD contract does have, has met the requirements of 95-507?

Mr. OVERSTREET. No; but I did have a chance to review. It was a design construction proposal. It wasn't necessarily the low bidder would get it. It was to go to the one who came in with the best proposal in terms of how the facility is being situated on the site, the dollar value would be, security for the elderly, and things of this nature, 25 percent MBE utilization, and that was to be a part of the proposal submittal and the successful bidder did not have that requirement.

Mr. MITCHELL. That is in your local HUD office now?

Mr. OVERSTREET. Yes; it is.

Mr. MITCHELL. OK; I think we would like to take a look at that.

One other question I have about your testimony. From time to time I have heard from other minority businesses that they have been advised by the local or regional Small Business Administration to secure a cooperative arrangement with a majority company; that is, a white company, giving as reason for doing this that maybe they didn't have experience or maybe the majority companies have greater access to capital, and this has worked out well for as long as the minorities retain control.

Now, am I correct in understanding that SBA, someone at the office of SBA, and I am not sure which one it was, advised you to get associated with a nondisadvantaged partner?

That was out of the Alaska office?

Mr. OVERSTREET. That was a condition before we were able to receive an 8(a) application that we would have to associate with a majority person.

Mr. MITCHELL. Was it with the understanding that you would still retain control over your company? It would be a kind of joint venture operation?

Mr. OVERSTREET. In terms of 33-percent turnover of stock, so we would maintain two-thirds ownership. That became the reason they turned us down.

Mr. MITCHELL. You did what they asked you to do. You associated with a majority firm. You still retained control over your business, and then you were turned down because you had done that?

Mr. OVERSTREET. Yes; that is correct; documentation is in my testimony.

Mr. MITCHELL. What was the reason for the turndown? I remembered seeing it in your testimony.

Mr. OVERSTREET. It was that the majority person associated with our companies was in a similar business and, therefore, that is in violation of SBA so and so and so on.

Mr. MITCHELL. Wouldn't that be logical to associate with a person who has already had experience in that area?

Mr. OVERSTREET. It seemed logical to me; but you have to realize the local SBA office.

Mr. MITCHELL. On your lack of 8(a) certification, we will hear from SBA tomorrow, apparently the 8(a) certification in this area is perhaps one of the lowest in all of our States. I certainly want to find out why that is taking place.

Major, do you have any questions?

Mr. CLARK. I have one question.

Mr. Overstreet, you received a rejection letter, I believe, dated August 8, 1979, as stated in your testimony, from SBA?

Mr. OVERSTREET. That is correct.

Mr. CLARK. You filed a letter of reconsideration?

Mr. OVERSTREET. Yes; I did.

Mr. CLARK. Have you received any response regarding that reconsideration?

Mr. OVERSTREET. No; I have not. We were in Washington in February and met with the gentleman at SBA named Mr. Hoffman, and he advised me that I couldn't fight city hall. I told him given the inconsistent information that has been reported, I certainly will continue to fight city hall.

Mr. CLARK. If I understand you correctly, as of this date you have not received, nearly 1 year, you have not received a response in terms of your letter of reconsideration?

Mr. OVERSTREET. That is correct.

Mr. CLARK. Have you submitted a written request to the agency seeking the status of your letter of reconsideration?

Mr. OVERSTREET. Yes; there are a number of pieces of correspondence over several months, but none of them speaks to the letter of reconsideration.

Mr. CLARK. Did your letter to the administration address the issues that were stated and the letter of rejection?

Mr. OVERSTREET. Yes; I referred to the fact, Mr. Cooper had reassigned the stock to us, so he no longer was associated with the company. They asked, do we now have the capability to do the work and the design construction. When you see those kinds of things take place over 2½ years——

Mr. CLARK. That may be true; part of your purpose of the 8(a) program is to provide management and technical assistance, and one can very well assume that that bonding assistance is a part of the management and technical package.

Thank you.

Mr. MITCHELL. Gentlemen, thank you very much. I hope you will be able to stay through most of the day.

We will come back to you later on.

I am sorry. The Senator indicated he had one question for Mr. Overstreet.

Senator GRAVEL. Louis, the one question I had was when you were counseled to go ahead and associate yourself with a majority type person as a joint venture, what reasons were you given? Did you lack certain strengths, bureaucratic expertise, physical capability?

Mr. OVERSTREET. Financial capability for a larger construction project. There was never any question of our ability to do the engineering.

Senator GRAVEL. To pick up some financial strength, you were counseled to go ahead and associate with the majority?

Mr. OVERSTREET. Yes.

Senator GRAVEL. When you were refused, what was the reason given for the refusal?

Mr. OVERSTREET. That we had a majority person who was in the company who was in a similar business. I know it is confusing.

Senator GRAVEL. I read you.

Thank you.

Mr. MITCHELL. That was for construction, right?

Mr. OVERSTREET. Design and construction. We were to do the engineering and come up with a dollar value and do the building also.

Mr. MITCHELL. Had you associated with a majority firm that had never been in design construction but rather had manufactured bagels or doughnuts or something, would that have been acceptable?

No, don't try to answer that.

Thank you, Mr. Overstreet.

I would like to call our next witness, Mr. Lee Grant; Mr. Valdez, I saw him earlier and admonished him to be on his best behavior.

Is there a representative from Sealaska Corp.?

Is Mr. Jim Crippen here?

Gentlemen, thank you very much for taking your time to be with us. I would hope each of you would make sure that our reporter has your name and business identification given to her promptly before you give your testimony.

If you have written copies of your testimony, that entire testimony will be submitted for the record which will be reported to the whole House Small Business Committee.

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Gentlemen, by unanimous consent, all three copies of the testimony will be submitted into the record, and you are free to just address the highlights of your testimony.

Could we lead off with you, Mr. Valdez?

PANEL CONSISTING OF: DAVID VALDEZ, INSULATION CO.; JIM CRIPPEN, J. & A. INC.; AND CLARENCE ANTIOQUIA, SEALASKA CORP.

TESTIMONY OF DAVID VALDEZ, INSULATION CO.

Mr. VALDEZ. I would like to reiterate, on the fairview contract, that is presently a concern for the Fairview community, I felt it was important because it was symbolic to what happens to the city of Anchorage and sometimes throughout the State.

Although the 95-507 provision does allow for the subcontracting portion in the contract, I think the issue in Fairview is the fact that the community itself, Fairview community, had approached HUD originally about 5 years ago and asked for safe, decent, and habitable housing which was not provided for them at Linda Arms.

Over a period of years, HUD got the property back in their possession, because the landlord had refused to make the housing habitable. The input from Fairview was assured up to the point of development where the input from the community was no longer desired on design and construction, and I think the Fairview community deserves to design and build the housing that they are ultimately going to be living in.

I have submitted my testimony.

I came to Alaska to negotiate a contract with the Corps of Engineers, and in the process of negotiation I was, I would say, suddenly not awarded a contract, and there was an effort by the Small Business Administration that was made to discredit me in the Fairbanks and Anchorage area with other minority contractors, basically telling them that I was coming in and bringing a bunch of Mexicans into a labor surplus area and try to scare them out of doing business with me or support me in this effort.

The only contention I had there is that the contract, as I understand it, was never awarded 8(a), whether it was awarded to me or not, so I think that something has to be looked into. The problems were the local SBA; I basically have stopped doing business as Insulation Co. of America in the State of Alaska, and I have primarily assisted other contractors.

I am presently employed as a business manager for the architectural and engineering firm that did develop the specifications and the plans for the contract that I was seeking. That is kind of ironic. I found that out last week.

The process I have been going through is, rather than to waste my time, my effort, and what precious little resource I do have, I am not saying I came to Alaska and was stuck here forever. I love this place. My wife is an Alaskan Native from Unalakleet. This is our home, and it will be our home forever. Nobody is going to drive me out of it.

I will be damned if I will let any Federal agency or any of the hired help that I pay taxes to support drive me out of my own country. I was born in this country and fought for this country and

will get all the benefits that this country has to offer myself, for my children and my grandchildren.

Right after I found out or discovered through conversations with Mr. Richard Andrews at the Corps of Engineers that my request was probably going to be denied, although he never said it directly, they asked me to bring information on my company. I brought them a copy of my 8(a) plan. They asked how I was going to bond the project, and my intention was to joint venture with another minority contractor out of Denver.

His name is Emil Gimeno, and he received an award for the fort that was built down there. I had one conversation after that in a coffee shop with him, and one of the things that came out was that other people at the Corps of Engineers were fearful that the Association of General Contractors would be upset if a contract of this size should go 8(a).

At that point my only response could be, well, I was not aware that the AGC (Association of General Contractors) was running the Corps of Engineers. If they were, they were wasting a lot of my tax dollars paying employees out there.

They should assign contracting functions to the Association of General Contractors, the 8(a) program, everything else. Basically, I think what I would like to say is all businessmen are antagonistic sometimes in nature. We have got to be aggressive or we are not going to survive, and it is the very quality that makes an entrepreneur that SBA seems to resent, and it is the tenacity to fight back which will probably make us successful.

SBA resents that. They have, I call it, the Pavlovian theory of business up here. They have proven symbolically that they can negotiate large contracts and that they can assist a few chosen individuals in the 8(a) process, and I think the message is clear if you are friends of the SBA Director, I don't want to get involved here, but if you cater to him you will be rewarded with business.

I don't have to be rewarded. I do a damn good job when I get out there. I know my business and I know it well. I can build as well as anybody else in this room or anyplace else in this country. I can prove it with houses in Denver. They are standing and in our communities in Colorado and New Mexico we have houses that had stood for hundreds of years, longer than any houses that HUD has put up.

We have even built pyramids. Alaska has no pyramids other than this new Federal building.

I think what I am saying is we wouldn't treat the president of General Motors or C. R. Lewis, who is a large businessman in this town, they wouldn't treat any banker with contempt or disrespect. They would not try to take his dignity from him, and yet as minorities we are expected to stand hat in hand, to act poor and like we are seeking welfare or something.

We are not. We are businessmen. We don't need welfare. All we want is to work and employ people, and we are the ones that are going to create those jobs.

Mr. MITCHELL. Ordinarily, I would ask that I set some ground rules and no questions would be raised until we heard from all three of the panelists.

I have to break my own ground rules. I look on page 4 of your testimony, the last paragraph, and you made a statement that had some very serious implications. A similar statement appears in writing.

"I was terminated in my position with the Center because of allegations filed against me by the Director of the SBA office, whom I have never met. I was subject to investigation," and so forth.

Let me ask a question here: You have in your oral statement said that those who showed an attitude which was expected to be demonstrated by them by the SBA office were the ones who got the contract.

Is that essentially what you said?

Mr. VALDEZ. No; I am saying that they have proven, they have shown that they can do the job if they want to, and they have demonstrated that they won't unless there are conditions that are part of the process.

Those conditions I am unaware of, but they appear to exist, because they are out there.

Mr. MITCHELL. Who is Mr. Patel? He was with the Office of Minority Business Enterprise?

Mr. VALDEZ. I presume he still is, knowing the Federal structure, probably getting promoted. I ran out of money. I spent month after month negotiating a contract and I had little resource and didn't want to draw out the working capital because we were performing contracts and I had a bond outstanding so I wasn't going to jeopardize my financial position.

Mr. MITCHELL. Did you go to Mr. Patel for assistance?

Mr. VALDEZ. No; I went to work. Alaska is very expensive and it is expensive to live in this town.

Mr. MITCHELL. Let me get back to what is in your written statement.

The same Mr. Patel appeared in an article on June 23; what article was that?

Mr. VALDEZ. An article in the Washington Post.

Mr. MITCHELL. As of June 23?

Mr. VALDEZ. Of 1980.

Mr. MITCHELL. And in this article, I am quoting: "* * * wherein they described his method of procuring contracts in exchange for sex and friendship."

Mr. VALDEZ. Yes, sir; that is the way the Washington Post reported it. This was the man that terminated my position at the Business Development Center. Primarily, the reason I was terminated was because I was aggressive and seeking 8(a) applications.

I was very effective in dealing with the SBA and getting the business plans done. I am sorry, sir.

Mr. MITCHELL. OK; I won't press this any harder. We will have to get the article from the Washington Post.

Are you suggesting that for homosexual favors contracts were let?

Mr. VALDEZ. No; Frank Cox, the Director of the Small Business Administration, and Joseph Patel, got together; they were not satisfied with not awarding me an 8(a) contract or putting me out of business. They went further.

When I had to go to work to support my family they went after me in my job and they conspired to get me fired. I was fired, but I was reinstated because after I went through an investigation through the Inspector General's Office of Commerce and it was found that the charges had no merit, then they conspired to set up a program of assistance, to manipulate the only program that was doing a job, one of the only programs.

Mr. MITCHELL. OK; suppose we hold it at that point until I get a chance to see the Washington Post article.

One other statement that you made which caused me to change my own ground rules, in your oral statement you indicated that efforts were made to discredit you by the SBA—I am using words to this effect—by someone or someone is going to get the rest of the minority business community saying that your objective was to bring in a number of Hispanic or Mexican people to oust them from business or threaten them.

Mr. VALDEZ. Basically to threaten them in the labor market.

Mr. MITCHELL. Who made those statements?

Mr. VALDEZ. I am not sure in the SBA; I am not sure.

Mr. MITCHELL. Well, now, Mr. Valdez, you got to be very careful; this is a tough statement that you made.

Mr. VALDEZ. OK; I think I know who it is.

Mr. MITCHELL. Did someone from the minority business community come to you and say, yes, someone from the SBA told me this. Did they identify the name of the person who came and told you that?

Mr. VALDEZ. No; he didn't, but I knew he was talking about Tom Andreola and David Yancy.

Mr. MITCHELL. You have no direct knowledge that this was done?

Mr. VALDEZ. No.

[Mr. Valdez, prepared statement follows:]

PREPARED STATEMENT OF DAVID VALDEZ, INSULATION CO.

My involvement in the SBA 8A program dated back to around 1968 in Denver, Colorado when the President, Richard Nixon, signed his executive order. It was a particularly difficult time in my life. The leaders I respected, who had given hope that there was indeed a better day in store for us, were gone; President Kennedy, Martin Luther King. Bobby Kennedy assassinated. Congress passed Civil Rights legislation, O.E.O. programs were started, model cities, affirmative action, Minority Business Enterprise, all aimed at appeasing all but the few believers, dreamers, naive. Free enterprise, was the most appealing, and seemed to provide some hope. Words like entrepeneur were entering our vocabulary. Could it be true? Was business a possibility? Could we really get loans for business, or were these also words of appeasement?

We formed U.L.A.B.A., United Latin American Business Association, to process loan applications. We recruited talent to assist us in the mountain of paperwork, Ed Lucero from Colorado National Bank; Louis Ramirez from First National Bancorporation; Jesse Sauceda, attorney; Marty Martines, a businessman; Rod Rodrigues, a TV repairman; Lee Montoya, an insurance salesman; and Rupert Hernandez, an insurance broker. We inundated S.B.A. with applications. The hopes and the spirits of our people were raised. S.B.A. was not responsive, the banks in Denver joined us in the effort. The Archdiocese of Denver funded our little group. Ed Lucero formed CEDA and was funded through 406 funds. Hilary Sandoval became director of S.B.A. Things started to happen. Bank loans were being made. Hispanic people started getting into business. Then we ran into other problems such as lack of collateral, lack of bonds, inability to obtain insurance in our neighborhoods, new hurdles that had to be jumped. One of the biggest hurdles was market, primarily the government market. It was an unobtainable dream. That is when 8A started.

G.S.A. held a workshop in Denver with other Federal agencies and then breakthroughs were made in that area because of a few individuals in the Region 8 office

of G.S.A. Then another breakthrough. Leonard Cole was made the Director of 8A for Region 8 and he brought clarity to the process of application for 8A. For the next 5 years, progress was being made one inch at a time. Federal officials were being trained for negotiation and processing. Federal executives were meeting regularly to discuss methods of identifying potential procurements. Time dragged, the urgency gradually waned, enthusiasm was being replaced with doubt and doubt with anger, cynicism and distrust, backbiting, discension, Watergate, and backlash.

During this period I was packaging, developing and constructing public housing. We utilized minority work forces. We learned, we fought racism, bigotry and hatred. Block by block we built enterprise, organized precincts, registered voters, and gained experience and expertise. H.U.D., H.E.W. and C.S.A. bureaucrats were constantly trying to seize control. We fed the poor, insulated homes, remodeled homes, as volunteers and gained experience. We avoided, as much as possible, any federal dependence and encroachment in the guise of urban renewal, revenue sharing, block grant. We organized business development courses. 8A negotiations all were accomplished on a brotherhood level with multi-racial coalition effort. National communication was being created by minority business people.

In the meantime, OMBE, CDCS and all the so called technical assistance centers were bogged down in the immediate past. May company, Insulation Company of America, was operating a small volume of work. We were also developing an expertise in energy audity, software programming and marketing of energy related products in alternate sources of heating. We performed housing studies and developed a good rapport with suppliers of product even though there was a shortage of FibreGlas type product. We were approved by the Small Business Administration in 1978. We installed insulation at the Rocky Mountain Arsenal.

I researched the appropriations for 1979 and identified a potential procurement in the State of Alaska, Ft. Wainwright. Mr. Don Coons in Denver contacted the Corp of Engineers. I was given the name of Mr. Richard Andrews, contracting official with the Corp of Engineers to begin preliminary negotiation. We had several conversations on the telephone and were assured of the contract. I took a trip to Alaska and met with Mr. Andrews. He was very pleasant and very cooperative. He requested additional information on my company for his records. I made arrangements with a local company to provide the FibreGlas insulation for the project since I was unable to obtain a distributorship from John Mansville or Owens/Corning since there was a shortage of materials at the time. We located a house in Anchorage and purchased it. Needless to say my family was very happy. My wife, being an Alaskan Native, was going to be home with her family.

I continued to communicate with Mr. Andrews on the contract and with Mr. Cole in Denver. At this point the process began to erode. I was asked to communicate with the local S.B.A. office. I made an appointment with Mr. Tom Andreola. When I went to the meeting he asked what I was doing in Alaska. I explained my background and my company background. He said that his office would like to administrate the contract and that I should transfer my 8A to his office. I explained that I was in the middle of negotiations and any arrangements of that sort should probably take place between him and Mr. Cole. I further explained that we were trying to establish a national market for my company.

I then asked if I could use his phone to call Mr. Cole. He became very hostile. He said that it was a government phone and it could only be used for government business. He then wanted to know how I had obtained the information on the contract. I told him I had obtained it from Senator Hart's office in Washington and that I had understood that his office had already cleared the procurement and that I was aware that he had handwritten a letter to Mr. Coon. He said he would deny that, and that I had no business knowing of such things. I told him I was very aware of the intent of 8A and was exercising my right to do business with the Federal government. He then became outrageous and started pounding on his desk and said that Mexicans might be a problem in California but there were not in Alaska and that there was a labor surplus shortage in the Fairbanks area and they would not appreciate me importing outsiders to do work. At this point, I chose to discontinue the conversation since he was obviously irrational and was being very arbitrary. I left his office, went to a telephone and called my partner in Denver and asked him to call Mr. Cole and relate what had occurred. I continued to communicate with Mr. Andrews for a time and he then discontinued any type of negotiation. I heard later that Mr. Andrews had been pressured out of his job because of our negotiations. I have since been able to obtain the names of the officials that he worked for. They are Col. George R. Robertson, DE; Lt. Col. Vernon Smith DDE; Ronald Hallmark, Chief Procurement and Supply; Tom Carter, Assistance Chief of Procurement and Supply. I cannot say what role they played through this whole scenario, but I deduce it was negative since the procurement never went 8A.

By August of 1978 my savings were running low and I decided to go to work so that I would not use up our entire savings or dip into my company's working capital. I informed Mr. Cole of this and found out that he was leaving the S.B.A. and that he was in bad health. Mr. Coon was also in bad health. I applied for a job with the Alaska Business Development Center as a construction specialist. I worked throughout the State. I prepared 8A applications, business plans, bond submittals and bid takeoffs. I arranged a meeting with Al Williams, Sky Records, and Richard Lopez seeking help for a client seeking 406 assistance for him. It was refused. "I was told he is a basketcase", by Mr. Sky Records. I disagreed. He needed management assistance desperately. The man was turned down.

I had the occasion to attend another meeting with another client who was supplying a bid for an 8A contractor. Mr. Andreola, David Yancy, Al Williams, Gary Selk, the client and myself were seated when Mr. Andreola verbally attacked me. He wanted to know if I was the same David Valdez that owned Insulation Company of America. I refused to answer him. I told him if he wanted to discuss anything other than the business at hand, then he would be welcome to call me after working hours at my home. I then explained the business at hand. The client wished to negotiate a contract with the 8A contractor but was being denied the proper information. Mr. Andreola then got extremely hostile and said that he was not responsible for Affirmative Action. I disagreed with him and pointed out the intent of the legislation and internal S.B.A. documentation did not relieve him of the right to comply with the Federal Law governing minority business utilization. He said that no Senator or Congressman could tell him how to do his job and jumped up from his chair and paced up and down. Mr. Williams stated that I should not wind up clients against the S.B.A. I did not feel I was. Gary Selk tried to salvage the situation but to no avail. Mr. Andreola went into a diatribe about the Business Development Center publishing a Directory of Minority Businesses that were erroneously publishing that they were 8A qualified.

The client later informed me that the S.B.A. had agreed to assist him in the preparation of his 8A package. He informed me some months later that his application had been denied.

I was able to successfully guide four applicants through the 8A process by working underground. I will not reveal their names without their permission since they would suffer harassment because of their association with me.

I was terminated in my position with the center because of allegations filed against me by the Director of the S.B.A. office, whom I have never met. I was subjected to an investigaton and the charges were found to be unwarranted. I am reinstated. Yosef Patel of the OMBE, San Francisco office then conducted a campaign of harassment against me and was finally able to change the scope of services for the Business Development Center to eliminate my position. This effort which was conducted cooperatively with the Director of the S.B.A., resulted in contracts being negotiated directly without competition. The same Mr. Patel appeared in an article on June 23 wherein they described his methods of procuring contracts in exchange for sex and friendship. I have ignored all the personal attacks knowing I would someday have the opportunity to appeal the injustice I feel I have personally suffered, but at this writing, I have not had the opportunity to since S.B.A. Denver has not taken any action other than to attempt to verbally induce me into a voluntary termination.

I will now specifically answer the questions posed in your letter of June 23, 1980.

1. Problems encountered in obtaining 8A certification. Answer—the length of time taken by S.B.A. during the application process.

2. Level of contract assistance. Answer—Approximately 50,000.

3. The problems encountered in gaining contracts from other Federal agencies. Answer—I spelled out the one instance with the Corp of Engineers, the other agencies I have encountered problems with are: G.S.A., H.U.D., and Department of the Interior.

4. Adequacy of technical assistance. Answer—I have never received technical assistance from S.B.A. I sincerely believe that the S.B.A. personnel I have met are unable to provide technical assistance to anyone.

5. Other problem areas with other Federal agencies that hinder effort to achieve economic parity. Answer—The problem is one of subtle discrimination and word of mouth type blackballing. I do not know if these problems can be overcome. There does not seem to be any enforcement mechanism to force agencies to comply with the intent of 95-507 nor does there appear to be any individual enthusiasm by federal officials towards 8A. Even though there is a clear and concise intention in the preamble of the legislation wherein it states that it is for the good of the nation to provide meaningful participation for minority businesses.

6. Recommendations to correct deficiencies in Federal assistance to minority business. Answer—I will limit my answer to the areas of which I am familiar.

Anchorage office.—Provide the type of leadership and direction that is honest, forthright and honorable. The present director is arbitrary, vindictive and his actions are embarrassing. He has openly demonstrated hostility towards individuals in the Black Community, has personally made public statements that reflect ignorance of his agencies regulations.

Regional office.—Has demonstrated an arbitrary attitude in advocating 8A, provided barriers of entry through creation of paperwork technicalities that border on the ridiculous.

National office.—Has demonstrated an arbitrary attitude in advocating 8A, provided barriers of entry through creation of paperwork technicalities that border on the ridiculous.

There appears to have been a definite lack of leadership by the national office even though the legislation itself is concise and could be easily implemented.

I cannot see any progress as long as the present administration is in office. I cannot see any gain for the minority business community as long as our destiny is tied to a bureaucracy of any sort.

Big business seems to have the control of Federal procurement and are no better at administrating the intent of Congress. We as minorities will never see a solution until we control the political parties of our country, build a strong minority business lobby, integrate the Federal bureaucracy and control our own destiny. I have seen a 360 degree return to oppression over the last 20 years that will not be supplanted by moral right, justice or to the very principal of American Dream. There can be no free enterprise for minorities until they are free to pursue enterprise. We have no recourses to exploit, we have no control over wealth, and we surely have no control over our future if we relegate our rights to a bureaucracy. This is tantemount to a new form of slavery.

I do not know at this writing what my economic future will be but I do know that I will not subject myself or my family to anymore deception or abuse by the S.B.A.

One irony to my personal situation is that I am presently employed to manage the firm that was responsible for the development of the architectural and engineering for the very procurement I sought.

I sincerely thank the committee for the opportunity to address them and hope that my testimony can somehow breakdown any artifical barriers of entry that have been created by the Anchorage S.B.A. office. I personally thank Congressman Parren Mitchell for his dedication and love and faith in his fellow man. I will regroup and I will succeed in my own enterprise. I bear no personal animosity towards any individual and realize that we always get the quality of assistance that we deserve since only we have the power and the free will to change the circumstances that control us.

JULY 5, 1978.

Major General PEEL,
Division Engineer, U.S. Army Corps of Engineers,
North Pacific Division, Portland, Oreg.

DEAR GENERAL PEEL: Pursuant to Section 8(a) of the Small Business Act (15 USC 637(a)) and in accordance with ASPR 1-705.5, Small Business Administration (SEA) desires to enter into a contract with the U.S. Army Corps of Engineers Ft. J. M. Wainwright, Alaska, for project: Insulation, Stores & Heat Controls. The estimated value of this requirement is $3,482,000. The point of contact is Richard Andrews, Ft. Richardson, Alaska.

This request is in support of an SHA approved business plan submitted to Insulation Company of America, Mr. David Valdez, 4871 Benton St., Denver, Colo. 80212, telephone 303-455-5086. This firm has the financial, managerial, and technical ability to successfully perform this requirement.

This project has been cleared with the Small Business Administration, Region X Office in Seattle and the District Office in Anchorage. Mr. Gerald Yeager, Corps of Engineers, Washington, D.C. has also been advised of our interest in this project and recommended direct contact with your office.

It is respectfully requested that the U.S. Army Corps of Engineers reserve the above pending procurement for negotiation of a Section 8(a) award to SBA. Please advise Mr. Don Foster, SBA, 1405 Curtis St., Denver, Colo. 80202, telephone (303) 837-4565, who will handle the negotiations for SBA, of your approval or declination

of this request. Written certification as to SBA's competency to perform the contract will be supplied by SBA at the conclusion of successful negotiations.

Sincerely,

HOWARD C. CHASE,
Acting Assistant Regional Director,
Procurement Assistance Division.

U.S. DEPARTMENT OF COMMERCE,
San Francisco, Calif., December 18, 1978.

Memorandum for: R. V. Romero, Regional Director.
From: Powell McDaniel, Deputy Regional Director.
Subject: Potential Conflict of Interest—Alaska Federation of Natives, Inc. (AFN).

The attached material represents copies of two 8a applications forwarded to me from Frank Cox, District Director of the Anchorage SBA District Office. The subject applicant is DSC Company, Inc., Anchorage, Alaska, George Williams, President. Mr. Williams currently is employed as a Construction Specialist II at AFN.

Monroe S. "Starkey" Caver, Assistant Regional Director for Minority Small Business, SBA Region X, requested that I call Cox on December 15. It appears that the Director of AFN, W. Furnace, has been reluctant to communicate with the local SBA office and discuss common areas of concern. During the course of our conversation Cox indicated that two employees of AFN, Messrs. George Williams and David Valdez, were in conflict of interest in that the majority of their time was being spent in pursuit of their personal 8a applications. David Valdez has been employed at AFN as a Construction Specialist I since September 11, 1978 and Williams since May 2, 1977 as a Construction Specialist II.

According to Cox, Mr. Valdez is the President of American Insulating Company located in Denver. The attached material concerning Williams was received December 18th. We are to receive similar background material on Valdez. A search of our records indicated that the only disclosure on file from either individual is included as an attachment.

Attachments.

To: U.S. Department of Commerce, Office of Minority Business Enterprise.

RESOLUTION IN SUPPORT OF THE ALASKA FEDERATION OF NATIVES/ALASKA BUSINESS DEVELOPMENT CENTER'S BID FOR THE B.D.O. CONTRACT FOR FISCAL YEAR 1979–80

Whereas, The Alaska Federation of Natives/The Alaska Business Development Center has submitted its bid to the United States Department of Commerce, Office of Minority Business Enterprise for the business development organization contract for Alaska for Fiscal Year 1979–80; and

Whereas the Hispanic minority entrepreneur and the Hispanic community as a whole has an excellent working relationship with the Alaska Business Development Center and its staff; and

Whereas the staff of the Alaska Business Development Center is extremely capable and renders highly qualified assistance to the Hispanic community; and

Whereas the Hispanic community supports the ongoing development, coordination, management and technical assistance for the establishment, preservation, and strengthening of minority business enterprise;

It is hereby resolved and declared that Hispanic Alaskan, Inc., on behalf of the Hispanic community in Alaska, support the Alaska Federation of Natives/Alaska Business Development Center in its bid for the business development organization contract for Alaska for Fiscal year 1979–80.

Done this 14th of March, 1979 at Anchorage, Alaska.

RENE J. GONZALEZ,
President,
RICARDO MARTINEZ,
Vice-President,
Hispanic-Alaskans, Inc.

ALASKA FEDERATION OF NATIVES, INC.
Anchorage, Alaska, September 17, 1979.

Mr. DAVE VALDEZ,
Alaska Business Development Center,
Alaska Federation of Natives, Anchorage, Alaska.

DEAR DAVE: Please be advised that under the new OBME grant the procurement function of Alaska Business Development Center will be delegated through the Executive Director of MBOC. Therefore, all procurement staff will be terminated as of September 30, 1979.

I wish you luck in new employment.

Sincerely,

MORRIS THOMPSON, *President.*

IN THE MATTER OF INSULATION CO. OF AMERICA, ANCHORAGE, ALASKA

AGREEMENT

Whereas, the Small Business Administration has proposed to terminate the participation of Insulation Company of America in the 8(a) program, and Insulation Company of America has agreed to such termination, therefore,

1. It is agreed that the participation of Insulation Company of America in the section 8(a) program shall be and hereby is terminated. Such termination to become effective as to all perspective assistance from the time of this Agreement.

2. It is agreed that this matter is properly under the jurisdiction of the Small Business Administration.

3. By this agreement, the parties expressively waive (a) further procedural steps, including any hearings, submission of proposed findings and conclusions, an initial decision by a hearing examiner, or final decision by the associate administrator from Minority Small Business and Capital Ownership Development, (b) the requirement that the Administration's decision contains findings of fact and conclusions of law, and (c) all rights to seek judicial review or otherwise to challenge the validity of the consent order.

This Agreement entered into this —— day of ———, 1980.

———— ————,
President,
Insulation Co. of America.

———— ————,
Regional Administrator,
Small Business Administration.

Attest:

———— ————,
Secretary,
Insulation Co. of America.

U.S. SMALL BUSINESS ADMINISTRATION,
Anchorage, Alaska, December 15, 1978.

Mr. POWELL MCDANIEL,
San Francisco, Calif.

DEAR MR. MCDANIEL: Enclosed are the two applications received from George Williams of the local OMBE contract office.

We certainly are concerned that there may be a conflict of interest.

Sincerely,

FRANK D. COX,
District Director.

Mr. MITCHELL. OK; thank you.

I will probably have some more questions for you.

Yes, sir. I am sorry to interrupt you.

A couple of things you said were of such significance, I had to try to get some clarification.

Identify yourself, please.

TESTIMONY Of CLARENCE ANTIOQUIA, SEALASKA CORP.

Mr. ANTIOQUIA. Congressman Mitchell, Mr. Clark, I am Clarence Antioquia, director of government affairs for Sealaska Corp. I appreciate your committee's concern regarding the implementation of Public Law 95-507.

We view this legislation as one of the most important means for minority and disadvantaged peoples to begin self-sufficiency in this country.

Sealaska Corp. is one of the 12 Alaska-based regional corporations created by the Alaska Native Claims Settlement Act, Public Law 92-203. Our corporation is owned by approximately 15,500 Alaska Native shareholders, many of whom reside in rural communities of southeast Alaska.

Clearly, Public Law 95-507 recognizes native Americans, and in this case Alaska Natives, as being in the category of "socially disadvantaged groups that have suffered the effects of discriminatory practices" and therefore eligible for the stated benefits of Public Law 95-507. As such, we were encouraged by the passage of the act and looked forward to its implementation.

It is now almost 1 year and 9 months since the act was passed and, from my experience, I cannot honestly say that the act has been implemented in Alaska. In the short time I have been with Sealaska Corp., I have called on several Federal agencies to inquire about Public Law 95-507 and the procedure for receiving subcontracts under that act.

In most cases, the individuals I talked to were not familiar with the act and referred me to one office after another. On occasion, I would find someone who was familiar with the act only to learn that the implementing regulations were not yet finalized.

You may be wondering if I contacted the right offices or asked the right questions. Having worked in the Federal services for over 21 years in several administrative positions, including the last 6 years as director of a major agency in Alaska, I feel I know how the Federal system is structured and how it operates.

My initial contacts were with procurement offices, contract offices, administrative offices, and in some cases, directors' offices. Again, I reiterate, from my perspective, I don't feel that Public Law 95-507 has yet been implemented in Alaska.

I have also talked at length with civil rights officials in the Small Business Administration in both Anchorage and Seattle, the State human rights commission, the State department of transportation and public facilities, the municipality of Anchorage, and the Alaska Business Development Center of AFN regarding minority business enterprise programs in general and Public Law 95-507 specifically.

Although all agree that Alaska Natives clearly are included in the target groups for these programs, some question the validity of subsidiary companies of regional corporations as being eligible small businesses.

The first issue that continually surfaces is the definition of a "socially and economically disadvantaged small business concern." The act's definition is a—

* * * small business concern:

(A) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publically owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(B) Whose management and daily business operations are controlled by one or more of such individuals.

I would like to restate that last criteria: "Whose management and daily business operations are controlled by one or more of such individuals."

Some agencies interpret the last section to mean that in order for a subsidiary company to qualify it must have a president or vice president being a member of the minority group. On the other hand, other agencies, such as the State and Federal departments of transportation, interpret the "control" criteria as being satisfied if the minority owners have the power to hire and fire the day-to-day manager.

We contend that the first interpretation exceeds the letter and spirit of the law and maintains that the latter interpretation is more realistic and consistent with the law.

I assume that the language of this section is intended to prevent phony joint ventures from forming where the minority group partner is said to own 51 percent and has neither the ability nor the intent of managing the joint venture. If that is the intent, I agree that it needs to be prevented; however, not by eliminating the eligibility of legitimate minority-owned companies.

The specific company we discussed was the Alaska Brick Group of Companies which is a wholly owned subsidiary of Sealaska Corp. This subsidiary is composed of three different companies, Pacific Western Lines, a tug and barge company serving Seattle, Yakutat, Valdez, and Anchorage, the Alaska Aggregate Corp., which supplies aggregate and ready-mix concrete, and the Alaska Brick Co., which sells all forms of building supplies, including cement, concrete blocks, and reinforcing steel.

Although neither the president nor the plant managers are Alaska Natives, the company is controlled by a five-member board of directors of which four are Alaska Natives.

Clearly, this board, coupled with the Sealaska Corp., board of directors, all of which are Alaska Natives, controls the management and daily operations of the Alaska Brick Group of Companies.

For example, these boards must approve the annual operational plans and budgets, allocations of additional positions, major alterations and improvements, major expansions and/or expenditures of funds, and the employment and retention of ABC officers and key staff.

Mr. Chairman, Sealaska Corp., was not aware of these hearings until very recently and therefore we did not have sufficient time to prepare detailed testimony.

Similarly, I checked with other Alaska Native organizations and they too were not aware of the hearings in time to prepare testimony. I therefore urge that additional hearings be scheduled, hopefully in Alaska, and that adequate notice be given to Alaska Native organizations to prepare testimony.

On our own part, Sealaska Corp. also has concerns regarding the size criteria to qualify as an MBE and the validity of being placed

on MBE lists. We are also concerned about the apparent lack of monitoring of prime contractors as it relates to utilization of minority business enterprises in subcontracts.

If further hearings are conducted on Public Law 95-507, we would appreciate being notified so that we can expand on these problems.

Mr. Chairman, in summary, Sealaska Corp. is disappointed in the implementation of Public Law 95-507 in Alaska, and we hope that through these hearings a new awareness of the problems will surface and that the full intent of this bill will be realized in Alaska.

Thank you. I will be pleased to answer any questions that your task force may have.

Mr. MITCHELL. Yes, sir; thank you.

That is some very excellent testimony, and you have raised some very cogent questions which I will address to you after we hear from our next witness, who is Mr. Crippen.

TESTIMONY OF JIM CRIPPEN, J. & A. INC.

Mr. CRIPPEN. Thank you, Mr. Chairman, Senator Gravel, and Mr. Clark.

I have accepted the chairman's invitation to appear here today in a rather dual capacity, as the testimony will indicate.

One is I am one of the owners of a minority engineering contracting firm here in Alaska, and in the second situation I appear as vice chairman of the American Indian Council of Architects and Engineers.

In trying to conserve your time and moving right along to the testimony, which I am sure the secretary could type into the record without my assistance, the testimony is pretty self-explanatory.

There is one sort of an update note that we would like to add to our 8(a) application which, incidentally, is about a year and a half old, and we have been informed that it is out of Anchorage.

I am not really sure whether that meant approved and passed on from Anchorage to some other area but given that same year and a half, what I am assuming is passed to regional level and in Washington, we have taken the position we are still 3 years away from May Day, so we will not be able to offer very much in the way of comments.

In summation, the understanding that we have so far is we are being penalized for the political influence that we have drawn on here, and that sort of has us all scratching our heads.

Mr. MITCHELL. What does that mean?

Mr. CRIPPEN. That has us questioning the entire package. We submitted 9 pounds of information with our package and we asked Senator Gravel's office to offer or submit a supporting letter with it. If this turns out to be the usual format, then I am suggesting, don't get Mike to help you out because——

Mr. MITCHELL. You are saying someone in SBA?

Mr. CRIPPEN. That is the rumor we have here in town, yes.

Mr. MITCHELL. You indicated that you felt you were being penalized because of political assistance you were receiving?

Mr. CRIPPEN. That is the supposition, yes.

Mr. MITCHELL. Do you have direct knowledge that any one person has said that to you or to anyone else associated with your directors.

Mr. CRIPPEN. I have directly asked two of the people, and there has been no comment from them.

Mr. MITCHELL. You asked someone from SBA because they are criticizing you because you wrote to a Representative and you asked someone from SBA, and their response was what?

Mr. CRIPPEN. They didn't respond.

Mr. MITCHELL. Did they simply look out the window, gaze at the ceiling?

Mr. CRIPPEN. Evaded the question entirely, talk about the weather.

Mr. MITCHELL. Go ahead with your testimony. One other question, would you assume that because they did not respond to your question that your worths were being realized?

Mr. CRIPPEN. That is the impression that I had. That is why I am suggesting for anyone submitting an 8(a) application locally, don't ask Mike's office to help you; it may turn out to be a great liability.

Mr. MITCHELL. That is your statement. I would take serious issue with that. If we reach a point in this Nation where any agency of government is going to say because an elected official representing the people gives some assistance and it places you in jeopardy, then that agency and all its people need to go.

I am sorry; go ahead with your testimony.

Mr. CRIPPEN. I am sorry; it is a very serious point. We did receive a call the other day. We are now being asked that each of our board of directors also submit form 1010's as if you were a firm applying, and I am a little bit in the dark as to the need for it as yet. That is about all the time we really need to take up on that issue.

The rest of the testimony, as I have said, I am sure the secretary can type into the record without my assistance.

Under our recommendations, we are asking that the committee support new legislation in conjunction with House Interior Committee, if this is at all feasible, to help replace portions of the Buy Indian Act that was recently struck down in the Supreme Court.

Moving backwards just for a minute, this was one of the reasons for the massive amount of material we did submit with our application. An Indian firm comes equipped with its own work. The Buy Indian Act, the contracting preferences that are in 94-437, 93-638, these are all actually minority business avenues, and we are hoping the committee will take a careful look at their ability to participate with the Interior Committee in these minority business areas.

They may have escaped your attention in the past.

We are also suggesting, due to several of the headaches we have experienced with agencies in the past, that some sort of a simple reporting system from each of the district and regional Federal contracting offices be constructed and sent to the committee's counsel. In other words, make it a matter of public record.

How is Anchorage doing with the Corps of Engineers as compared to Denver or San Francisco? I am hoping this suggestion can be taken very seriously, because we think we have problems here

and we hear from Los Angeles complain and we go back home thankful.

You have made a point I have heard in other areas of the country this spring. We have a very poor track record with our local SBA office. A simple report form could be put together without too much problem. We are also suggesting because of our specific application, and a meeting that we attended in February for Indian tribal employment rights office personnel and Indian contractors nationwide, that you take a careful look at centralizing applications for 8(a).

I have had a lot of very pleasant conversations with some of the SBA people here locally, and two of us sat there and bickered over the interpretation of an SOP order coming out of Washington. I can't take issue with them for having a thinking mind. My concept is to eliminate the district offices' thinking process, in other words, do something specifically. It doesn't all come out that clear.

From listening to the Indian firms nationwide and their problems, ours is not unusual. We have been trying a year and a half to get out of the Anchorage office. Some of them have been working at this thing for 2 years, and can't even get the paperwork to submit applications.

The remote areas that most of us live in have a lot to do with that. A centralized application office in say Denver, for example, with one person in the field offices to just do intake and forward them all to Denver, so we could all address the same criteria with the same sort of thinking. I am sure that would at least help the processing here in Anchorage.

We are also asking the committee, when you get back to Washington, to juxtapose the technical assistance of 95-507 with Public Law 93-638 and the remaining portions of the Buy Indian Act and anything that comes out of Indian Health Services that can be labeled as a benefit for Indians. We are minority firms, and there are a lot of contracting opportunities that are a matter of law where we have problems with interpretation on Indian preference.

I am sure the exhibits will show there are millions of dollars of work going out of this office of Public Health Service for the benefit of Indians annually which is totally escaping the directives that you voted to put into these laws on Indian preference, or minority contracting preferences.

After juxtaposing the authority of all of those three laws with the Indian Health Service nationwide, keep the local desk advised of everything that they are doing. If an Indian firm cannot be located and is not eligible, the minority firm would have the project.

I can't think of anything else that is very pertinent to the issue. David has an unusual situation we would like to comment on. He is working for several different groups here in town, myself being one of them.

Going back to our Mr. Patel situation last year, I called Senator Gravel's and Senator Stevens' office and Congressman Young's office to support what was actually happening to the funding for the office that Dave was working with, the Alaska Business Development Center.

Too bad the Senator got away here; I owe him a vote of thanks. I have a copy of the Washington Post article which I can get over to you this afternoon. His comments on Mr. Patel were probably a lot closer to target than we would like, although it took a year to prove the case.

The Washington Post investigative reporters did a remarkable job.

[Mr. Crippen's prepared statement and attachments follow:]

PREPARED STATEMENT OF JIM CRIPPEN, J. & A. INC.

My name is Jim Crippen and I have gratefully accepted the chairman's invitation to appear here today in a dual capacity. One as a minority engineering-contracting firm here in Alaska and two as the vice chairman of the American Indian Council of Architect's and Engineers. Our firm, J. & A. Inc., is no stranger to efforts to enhance minority economic development here in Alaska and nationally within the American Indian community. Our protest record at general accounting office speaks for our position on economic parity and minority business development.

My purpose in appearing is to register our concern on two fronts. One is the almost absolute ineffectiveness of Public Law 95-507 into the Indian community both nationally and locally, and secondly the difficulty Indian firms encounter in obtaining 8(a) certification. I also have some suggestions for the committee on correcting several deficiencies in federal assistance to minority firms, especially Indian firms.

One of the common objectives of whites and Indians alike since the end of the Indian wars has been Indian economic party. Specifically to make Indians more self sustaining economically and full participating members of our free enterprise system. The greatest deterrent to accomplishing this goal has been that America's 2 million Indian citizens reside in reservation or remote locations and operate in an economic vacuum with little opportunity to develope the management skills necessary for economic survival in today's highly competitive business world.

Congrees recognized this economic parity problem as early as 1910 with passage of the "Buy Indian Act" which was recently struck down in part by the supreme court as being a poorly worded piece of legislation. We believe Congress has more recently reconfirmed it's position on Indian economic parity with the passage of Public Law 95-507 and also 93-638, the "Indian Self Determination Act," which provides for preferential treatment in contracting for Indian firms. 8(a) together with 93-638, 94-437 and the recent billion dollar appropriation to the Secretary of Interior for B.I.A. facility construction and improvement should realistically lead to a degree of economic parity for Indian minority firms nationwide. A great majority of these same firms, ourselves included, were organized for the benefits that 8(a), the "Buy Indian Act" and "the Indian Self Determination Act" afforded minority firms. We have struggled unsuccessfully for 2 years to overcome the bureaucratic inertia which strangles implementation of this legislation. Another attempt at strangulation is on-going at this very moment within the Department of Interior.

By way of example, the initial correspondence in our 8(a) submittal file is dated January 4, 1979. [Exhibit 1.] We were informed by S.B.A. that our locally approved submittal left Anchorage on June 4, 1980. Allowing an additional 18 months each, for region and national review we are still 3 years away from 8(A) certification. Native Americans constitute nearly 20 percent of Alaska's population. Native American 8(a) firms are a minority locally as well as nationally, although several additional laws give preference to Indians in contracting. [Exhibit 2.]

The Indian health service is mandated by Congress to grant Indian preference in contracting on all of their projects. [Exhibit 3.] The Indian health service here in Alaska spends millions annually for Alaska native village water and sewer projects. Where Public Law 94-437 clearly States Indian preference will prevail from the design through construction stages, we have yet to notice one project with Indian contracting perference in compliance with this law. On June 17, 1980 the Indian health service hospital here in Anchorage advertised for bids on a heating control modification project at the Anchorage hospital, identifying the project as worth less than $25,000. They amended the solicitation on July 3. [Exhibit 4.] A bid bond is now required and no Indian preference is indicated. In our view this type of procurement action is a clear violation of the congressional spirit and intent of the Buy Indian Act (which still fully applies to Indian health service) and further violates 95-507, 93-638 and 94-437. We have elected not to bore the committee with the 50 odd similar violations we have witnessed in the past 2 years.

As Congressmen you gentlemen approved passage of the "Indian Self-Determination Act" on December 19, 1974. [Exhibit 5.] The act addresses the Secretaries of H.E.W. and Interior. Section 7(b) of this Act addresses Indian preferences in employment, training and subcontracting. Congress directed the Secretaries to publish regulations on 7(b) within 10 months. At the June 1980 meeting of the American Indian Council of Architects and Engineers in Denver, we were handed copies of the H.H.S. "Draft" 7(b) regulations. [Exhibit 6.] Interior has published 7(b) regulations. The regulations are 6 months old and already being circumvented by the new Department of Interior, "Facilities Construction Improvement Division," in their recent commerce business daily advertisements for Indian schools without Indian architect preference. [Exhibit 7.[1]] The legislation and funding that you Congressmen pass judgement on intended for minority firms does not necessarily find its way to minority firms. When a minority firm protests they may experience a situation similar to our present one with the Corp of Engineers here in Anchorage.

Last year we protested the corps' lack of notice of Indian preference in bid documents for an Indian project. [Exhibit 8.] Later in the year we were called by the corps for an architectural-engineering interview. When the corps staff discovered that we were both architect and protestor we have never heard from them again. A similar situation exists with ourselves and Bureau of Indian Affairs, Albuquerque, and H.U.D. locally on B.I.A. architectural services and H.U.D. Indian housing design respectively.

We believe that Alaska has a reservoir of over 100 minority firms to meet the needs of our Government procurement which now spends a million dollars per hour. Only a handful of these firms have been able to achieve 8(a) certification. We are aware of more than 50 Indian owned architectural and engineering firms nationwide. Again only a handful have been able to achieve 8(a) certification. These small minority firms operating without the benefit of 8(a) must compete with the professional goliaths of this country who solicit Government contracts such as ITT, with assets in excess of 2 billion dollars and a sales staff numbering in the thousands. If economic parity is ever to be achieved 8(a) is the logical answer. If our application is typical a year and a half of processing is too long.

The advantage to the committee task force in further supporting Indian 8(a) applications is the tremendous amount of work approved by Congress for Indian contractors. The fact that new agency methods for circumventing this preference arise daily can also be overcome by a simple reporting system to the committee. In essence the Indian firm comes into 8(a) equipped with his own work. Greater use of 8(a) should retire situations that we Indian minority firms face today like our present one with Richard Steele, Director, Department of Interior, "Facilities Construction Improvement and Operations Division."

Mr. Steele is on loan to Interior from General Services Administration. We understand his mission is to construct or upgrade Bureau of Indian Affairs facilities nationwide. By his own admission, at the Denver June meeting of the American Indian Council of Architects and Engineers, his staff has conducted preliminary surveys, lobbied for nearly a billion dollars and now plans to retain architects on Indian facilities nationwide, all without benefit of the congressionally mandated Indian preference found in the Buy Indian Act and section 7(b) of the Indian Self-Determination Act. [Exhibit 9.[1]] A timely reprimand by the committee could reverse this trend. Since a great portion of this work is in Alaska all Alaskan minority firms would ultimately benefit if Mr. Steele's attention were firmly directed toward 8(a) in general and Indian firms specifically.

In summary, we have related our 8(a) application problems locally and have a recommendation for the committee on application processing attached. On "level of S.B.A. contract assistance since October 1978" we have to reply "none." We are aware of 8(a) firms locally who are extremely pleased with the quality and quantity of assistance provided by the Alaska S.B.A. offices. The problems we have encountered in trying to gain Federal contracts are best expressed by our General Accounting Office protest file. G.A.O. numbers: B-196326, Corps of Engineers; B-196137, Husky Oil NPRA (USGS); B-196148, H.E.W. (now H.H.S.); B-197892, B.I.A.; B-197774, H.E.W. (now H.H.S.).

Comments on the "Adequacy of Technical and Management Assistance from S.B.A." In our particular case will be forthcoming after approval is obtained and a suitable exposure period has lapsed.

The major problem areas with other Federal agencies in the case of Indian owned firms, is the agency's total disregard for the congressional spirit and intent of Indian contracting preference legislation. A condition which we believe the commit-

[1] In files of task force.
[1] In files of task force.

tee can help remedy not only here in Alaska but nationally. Indian business is minority business and overview by the committee would be both welcome and advisable to ultimately achieve economic parity within the Indian minority business community nationwide.

RECOMMENDATIONS, HOUSE OF REPRESENTATIVE COMMITTEE ON SMALL BUSINESS, TASK FORCE ON MINORITY ENTERPRISE, ANCHORAGE, ALASKA, JULY 16 & 17, 1980

On behalf of the American Indian Council of Architects and Engineers and J. & A. Inc. we respectfully submit the following:

(1) That the House Committee on Small Business support new legislation in conjunction with the House Interior Committee to replace the "Buy Indian Act" recently struck down in part by the Supreme Court.

(2) The committee extend their purview of minority business into the Indian desk of the Department of Interior, H.U.D. and Department of Health and Human Services. Indians are minorities. Indian business is minority business and the committee should be appraised of and monitor agency performance on Indian legislation involving business opportunities.

(3) The committee institute a monthly reporting system from the district and regional contracting offices of all Federal agencies so that a simple compliance report on the dollar volume awarded monthly to minorities can be returned to the committee counsel in a timely manner.

(4) Centralize 8(a) application approval to expedite application processing with districts serving as intake offices.

(5) Juxtapose the technical assistance resources of P.L. 95-507 with P.L. 93-638 and the "Buy Indian Act" and direct the appropriate Indian agencies (Interior & H.H.S.) to copy region and district 8(a) desks on all proposed procurements "For the Benefit of Indians." If Indian firms are not available other minority firms can be utilized.

U.S. SMALL BUSINESS ADMINISTRATION
Suite 200 Anchorage Legal Center
1016 W. 6th Avenue
Anchorage, Alaska 99501

January 4, 1979

EXHIBIT ONE

Mr. Jim Crippen
J & A Inc.
P.O. Box 8-657
Anchorage, Alaska 99508

Dear Mr. Crippen:

Enclosed is an 8(a) application with information on important parts of the application.

You will need to fill the application out completely and return it to me.

Sincerely,

David O. Yancey
Business Management Specialist

Enclosures

7-12 EXHIBIT TWO

Indian Preference in Employment, Training and Subcontracting

§ 3-1.360 Indian preference in employment, training, and subcontracting opportunities.

(a) Statutory requirements. Section 7(b) of the Indian Self-Determination and Education Assistance Act (Sec. 7(b), Public Law 93-638; 88 Stat. 2205;25 U.S.C. 450e(b)) requires:

> "Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible -
>
> (1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and
>
> (2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77)."

(b) Applicability. (1) The Indian Preference clause, set forth in § 3-7.5015, shall be included in all solicitations and resultant contracts when

> [Applicability provisions will be completed at a later date.]

(2) The Indian Preference Program clause, set forth in § 3-7.5016, shall be included in all solicitations and resultant contracts for nonconstruction work which may exceed $50,000, which contain the clause required by paragraph (b)(1) of this § 3-1.360, and where, prior to solicitation, it is determined that the work under the contract will be performed in whole or in substantial part on or near an Indian reservation(s). For construction work, the clause shall be included for procurements

EXHIBIT THREE

(d) Any funds paid to a financial assistance recipient referred to in subsection (a) of this section and not expended or used for the purposes for which paid shall be repaid to the Treasury of the United States.

PENALTIES

SEC. 6. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract, subcontract, grant, or subgrant pursuant to this Act or the Act of April 16, 1934 (48 Stat. 596), as amended, embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of such a grant, subgrant, contract, or subcontract, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both. 25 USC 450d. 25 USC 452.

WAGE AND LABOR STANDARDS

SEC. 7. (a) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with contracts or grants entered into pursuant to this Act, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended. With respect to construction, alteration, or repair work to which the Act of March 3, 1921 is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C. 276c). 25 USC 450e. 40 USC 276a note. 5 USC app. II.

(b) Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible— 25 USC 452.

INDIAN PREFERENCE

(1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77). 25 USC 1452. 88 STAT. 2205 88 STAT. 2206

CARRYOVER OF FUNDS

SEC. 8. The provisions of any other laws to the contrary notwithstanding, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year. 25 USC 13a. 25 USC 13, 92a.

PRE-INVITATIONS

***

PROJECT: [illegible] WRANGELL, ALASKA

EXHIBIT THREE

reconstruct the Wrangell Inner Harbor Facilities include: re feet of timber floats, driving 29 timber float piles approximately 250 cubic yards of sand and silt, and ms repairs and float removal. Alternate No. 1 includes r and lighting.

BID DATE: J[illegible], 1980 at 2:00 PM
Dep. of Trans. & Pub. Facilities
Rm. 213 Island Center Bldg.
Douglas, AK 99802

PLANS: Office of the Director
Div. of Harbor Design & Const.
Pouch Z Rm. 214 Goldstein Bldg.
Juneau, AK 99811
907-586-2195

PROJECT: THE ALASKA AREA NATIVE HEALTH SERVICE, ANCHORAGE, ALASKA
243-IFB-80-0113

Project consists of renovate, add heat, controls, related work in two buildings. No. 301 and 302. Alaska Area Native Health Service. Estimated Cost of Construction: Below $25,000.00.

BID DATE: July 17, 1980 at (time unknown)
HSA, Alaska Area Native Health Servs.
P. O. Box 7-741
Area Purchasing and Contract Section
Ground Floor, N.E. wing Bldg. 302
3rd. and Gambell St.
Anchorage, AK 99510

PLANS: HSA, Alaska Area Native Health Servs.
P. O. Box 7-741
Area Purchasing and Contract Section
Ground Floor, N.E. wing Bldg. 302
3rd. and Gambell St.
Anchorage, AK 99510
$10.00 NON-REFUNDABLE FEE

PROJECT: THE ALASKA AREA NATIVE HEALTH SERVICE, ANCHORAGE, ALASKA
243-IFB-80-0114

To pressure grout an estimated 100 each manholes in accordance with plans and specifications. Estimated cost of construction: Between $100,000.00 and $300,000.00.

BID DATE: July 17, 1980 at (time unknown)
HSA, Alaska Area Native Health Servs.
P. O. Box 7-741
Area Purchasing and Contract Section
Ground Floor, N.E. wing Bldg. 302
3rd. and Gambell St.
Anchorage, AK 99510

PLANS: HSA, Alaska Area Native Health Servs.
P. O. Box 7-741
Area Purchasing and Contract Section
Ground Floor, N.E. wing Bldg. 302
3rd. and Gambell St.
Anchorage, AK 99510
$10.00 NON-REFUNDABLE FEE

STANDARD FORM 22
JANUARY 1961 EDITION
GENERAL SERVICES ADMINISTRATION
FED. PROC. REG. (41 CFR) 1-16.401

INVITATION FOR BIDS
(CONSTRUCTION CONTRACT)

REFERENCE
Amendment No. 1 / 3 July 1980
243-IFB-80-0118

DATE
June 18, 1980

NAME AND LOCATION OF PROJECT
Renovation of Heat Controls — Buildings 301 & 302, Alaska Area Native Health Service, Anchorage, Alaska

DEPARTMENT OR AGENCY
Department of Health and Human Services

EXHIBIT FOUR

BY (Issuing office)
HSA, Alaska Area Native Health Service
Area Purchasing and Contract Section
P. O. Box 7-741, Anchorage, Alaska 99510

Sealed bids in Single Copy for the work described
2:00 p.m. local time on July 17, 1980.

at Alaska Area Native Health Service, Area Purchasing and Contract Section, ground floor, Northeast Wing, Building 302, 3rd Avenue and Gambell Street, Anchorage, Alaska 99510.

and at that time publicly opened.

Information regarding bidding material, bid guarantee, and bonds

(a) Bid Bonds: Each bidder shall submit with his bid a bond (SF-24) with good and sufficient surety or sureties acceptable to the Government or other security as provided in paragraph 4 of Instructions to Bidders (SF-22) in the form of twenty percent (20%) of the bid price. Th Bid bond penalty may be expressed in terms of a percentage of the bid price or may be expressed in dollars or cents.

(b) Performance and Payment Bonds, within seven (7) days after prescribed forms are presented to the bidder to whom is made for signature, a written contract on the form prescribed by the specifications shall be executed and two bonds, each with good and sufficient surety or sureties acceptable to the Government. the penal sum of such bonds shall be as follows:

(Continued on Reverse Side)

Description of work Renovation of heat controls and heating system for Building 301 and 302, Alaska Area Native Health Service. Work includes some rework and relocation of water and steam pipes.

Estimated Cost of Construction: Under $25,000.00.

warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes."

The House amended the title.

The substitute title agreed to in conference is as follows:

An Act to provide minimum disclosure standards for written consumer product warranties; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

WARREN G. MAGNUSON,
FRANK E. MOSS,
P. A. HART,
TED STEVENS, (with separate views),
J. GLENN BEALL,
Managers on the Part of the Senate.
HARLEY O. STAGGERS,
JOHN E. MOSS,
W. S. (BILL) STUCKEY, Jr.,
BOB ECKHARDT,
JAMES T. BROYHILL,
JOHN H. WARE,
JOHN Y. McCOLLISTER,
Managers on the Part of the House.

EXHIBIT FIVE

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

P.L. 93-638, see page 7223

Senate Report (Interior and Insular Affairs Committee) No. 93-682, Feb. 7, 1974 [To accompany S. 1017]

Senate Report (Interior and Insular Affairs Committee) No. 93-762, Mar. 28, 1974 [To accompany S. 1017]

House Report (Interior and Insular Affairs Committee) No. 93-1600, Dec. 16, 1974 [To accompany S. 1017]

Cong. Record Vol. 120 (1974)

DATES OF CONSIDERATION AND PASSAGE

Senate February 8, April 1, December 19, 1974

House December 19, 1974

The House Report is set out.

HOUSE REPORT NO. 93-1600

THE Committee on Interior and Insular Affairs to whom was referred the bill (S. 1017) To promote maximum Indian participation in the government and education of the Indian people; to provide

7-(b) DRAFT 6/17/80

Indian Preference in Employment, Training and Subcontracting

EXHIBIT 51

Indian preference in employment, training, and contracting opportunities.

(a) Statutory requirements. Section 7(b) of the Indian Self-Determination and Education Assistance Act (Sec. 7(b), Public Law 93-638; 88 Stat. 2205;25 U.S.C. 450e(b)) requires:

> "Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible -
>
> (1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and
>
> (2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77)."

(b) Applicability. (1) The Indian Preference clause, set forth in § 3-7.5015, shall be included in all solicitations and resultant contracts when

> [Applicability provisions will be completed at a later date.]

(2) The Indian Preference Program clause, set forth in § 3-7.5016, shall be included in all solicitations and resultant contracts for nonconstruction work which may exceed $50,000, which contain the clause required by paragraph (b)(1) of this § 3-1.360, and where, prior to solicitation, it is determined that the work under the contract will be performed in whole or in substantial part on or near an Indian reservation(s). For construction work, the clause shall be included for procurements

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EXHIBIT 51

exceed $100,000. The Indian Preference Program also be included in solicitations issued and con- rded by a procuring activity which may not exceed ,000 and $100,000 levels for nonconstruction and ction contracts, respectively, but which contain the- e required by paragraph (b)(1) of this § 3-1.360 and, in opinion of the procuring activity, offer substantial op- ortunities for Indian employment, training, and subcontract- ing.

(c) Definitions. For purposes of this § 3-1.360, the follow- ing definitions shall apply:

(1) "Indian" means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual to provide evidence within thirty (30) days from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settle- ment Act (85 Stat. 688;43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such govern- ing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active operation and control.

(5) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, region- al corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

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'n or near an Indian Reservation" means on a reservation
·ions or within that area surrounding an Indian re-
) where an Indian person seeking employment could
be expected to commute to and from in the course of a

EXHIBIT 31-1

.) Compliance enforcement. (1) The concerned procuring civity shall be responsible for conducting periodic reviews to ensure contractor compliance with the requirements of the clauses set forth in §§ 3-7.5015 and 3-7.5016. These reviews may be conducted with the assistance of the Indian Tribe(s) concerned.

(2) Complaints of noncompliance with the requirements of the clauses set forth in §§ 3-7.5015 and 3-7.5016 which are filed in writing with the procuring activity shall be promptly investigated and resolved by the contracting officer.

(e) Tribal preference requirements. (1) Where the work under a contract is to be performed on an Indian reservation, the procuring activity may supplement the clause set forth in § 3-7.5016 by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the procuring activity and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Pub. L. 93-638 and must be approved by the Department's Office of Procurement Policy, OGP, in cooperation with the Office of General Counsel and the affected program director before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clauses in §§ 3-7.5015 and 3-7.5016 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(2) Nothing in these regulations shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as provided in § 3-1.360(e)(1) above, become a requirement in contracts covered under this § 3-1.360 and must not hinder the Government's right to award contracts and to administer their provisions.

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Subpart 3-7.50 - Special Contract Clauses

Indian preference.

EXHIBIT 51

owing clause shall be used as prescribed in § 3-
.1):

INDIAN PREFERENCE

(a) The Contractor agrees to give preference in employment opportunities under this contract to Indians who can perform required work, regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation, and, to the extent feasible and consistent with the efficient performance of this contract, the Contractor further agrees to give preference in employment and training opportunities under this contract to Indians who are not fully qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient performance of this contract. The Contractor shall maintain such records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom, or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its training and employment opportunities after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available under reasonable terms and conditions, including price

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EXHIBIT 51

awarding of subcontracts in connection with work performed under this contract, the ...ntractor agrees to comply with the provi...ions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus area concerns.

A price differential of up to 10% between bids or offers that are competitive with market prices and the low responsive Indian bid shall be considered reasonable.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual to provide evidence within thirty (30) days from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active operation and control of the enterprise.

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EXHIBIT 51

) The Contractor agrees to include the visions of this clause, including this agraph (f), in each subcontract awarded any tier under this contract.

(g) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interests of the Government.

§ 3-7.5016 Indian preference program.

The following clause shall be used as prescribed in § 3-1.360 (b)(2):

INDIAN PREFERENCE PROGRAM

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference," the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preference for training and employment in connection with the work to be performed under this contract. In this connection, the Contractor shall:

(1) Designate a liaison officer who will (i) maintain liaison with the Government and the Tribe(s) on Indian preference matters; (ii) supervise compliance with the provisions of this clause; and (iii) administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice in the Tribal office of any reservations on which or near

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EXHIBIT 51+

ere the work under this contract is to be formed that sets forth the Contractor's loyment needs and related training opportunities. The notice shall include the approximate numbers and types of employees needed; the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. Consistent with the efficient performance of this contract, the Contractor shall give public notice of existing subcontracting opportunities by soliciting bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including: (1) a clear description of the supplies or services required, including quantities, specifications, and delivery schedules which facilitate the participation of Indian firms; (ii) a statement indicating that preference will be given

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EXHIBIT 51

Indian organizations and Indian-owned economic enterprises in accordance with Section of Public Law 93-638; (88 Stat. 2205; U.S.C. 450c(b)); (iii) definitions for the terms "Indian organization" and "Indian-owned economic enterprise" as prescribed under the "Indian Preference" clause of this contract; (iv) a representation to be completed by the bidder or offeror that it is an Indian organization or Indian-owned economic enterprise; and (v) a closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after soliciting bids or proposals from Indian organizations and Indian-owned economic enterprises, no responsive bid or acceptable proposal is received, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference" clause of this contract. If one or more responsive bids or acceptable proposals are received, award shall be made to the low responsible bidder or acceptable offeror if the price is determined to be reasonable. If the low responsive bid or acceptable proposal is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a reasonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference" clause of this contract.

A price differential of up to 10% between bids or offers that are competitive with market prices and the low responsive Indian bid shall be considered reasonable.

(5) Maintain written records under this contract which indicate: (i) the names and addresses of all Indians seeking employment for each employment position available under this contract; (ii) the number and types of positions filled by (A) Indians and (B) non-Indians, and the name, address and position of each Indian employed under this contract; (iii) for those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the

DRAFT

EXHIBIT 51

Indian applicant was not selected; (iv) actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract; (v) reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where it was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract, and (vi) the names and addresses of all Indian organizations and Indian-owned economic enterprises (A) contacted, and (B) receiving subcontract awards under this contract.

(6) Submit to the Contracting Officer for approval a quarterly report which summarizes the Contractor's Indian preference program and indicates the number and types of available positions filled and dollar amounts of all subcontracts awarded to (i) Indian organizations and Indian-owned economic enterprises and (ii) all other firms.

(7) Maintain records pursuant to this clause and keep them available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purposes of this clause, the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian Organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that

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EXHIBIT 51

area surrounding an Indian reservation(s) where an Indian person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not hinder the Government's right to award contracts and to administer their provisions.

(d) The Contractor agrees to include the provisions of this clause including this paragraph (d) in each subcontract awarded at any tier under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interest of the Government.

Husky

Husky Oil NPR Operations Inc.

Suite 400 2525 "C" Street
Anchorage, Alaska 99503
(907) 276-4566

June 27, 1980

EXHIBIT
EIGHT

Mr. James W. Crippen
J & A Inc.
P.O. Box 8-657
Anchorage, Alaska 99508

Dear Mr. Crippen:

SUBJECT: Invitation for Bids 058CC
Surveying Services

Thank you for your response to our Invitation for Bids No. 058CC for Surveying Services.

We regret to inform you that you were not the apparent successful bidder for these services.

Your firm will remain on our bid list of companies providing specific services of this nature.

Sincerely,

Wm. C. Hamilton
Procurement Manager

/fm

cc: T. E. Brooks
A. Aanensen
W. C. Abbott
M. C. Brewer

RECEIVED
JUN 30 1980
J&A INC.

EXHIBIT
EIGHT

FROM: See return address on reverse. | DATE 13 Jun 80

WRITER'S NAME/TELEPHONE NO.
Theresa Graham (907) 752-2114

☒ YOUR ☐ OUR COMMUNICATION (Kind, reference symbol, date, subject, or other identification)
CONCEPT DESIGN, MARS FACILITY, VARIOUS LOCATIONS, ALASKA
RESPONSE TO THE COMMERCE BUSINESS DAILY ANNOUNCEMENT REGARDING THE ABOVE PROJECT.

ACTION TAKEN OR REQUESTED

☐ REPLY WILL BE FURNISHED ON OR ABOUT _____ ☐ RECEIPT ACKNOWLEDGED
☐ REQUEST DATE WHEN REPLY MAY BE EXPECTED ☐ FOR DIRECT REPLY
☐ WE HAVE SENT YOUR COMMUNICATION TO (See below) ☐ TO OBTAIN INFORMATION
X ALTHOUGH YOU WERE NOT SELECTED WE HOPE YOU WILL CONTINUE TO RESPOND TO ANY CORPS OF ENGINEERS ANNOUNCEMENT OF INTEREST TO YOU.

☐ OTHER INFORMATION ☐ SUPPLIED OR ☐ REQUESTED

TYPED NAME, GRADE, AND TITLE
THERESA GRAHAM, Reports Asst.

SIGNATURE

DA FORM 209, 1 Jan 78 REPLACES EDITION OF 1 NOV 62, WHICH WILL BE USED. DELAY, REFERRAL, OR FOLLOW-UP NOTICE (AR 340-15)

Mr. MITCHELL. I thank you very much.

The Senator indicates he is going to try to get back. I know what it is like. When I am in the district I am called on to be 50 places simultaneously. I hope that he can come back.

Mr. MITCHELL. Mr. Antioquia, you indicated there were several agencies not familiar with the act, and on page 2 you say, the first paragraph, "You may be wondering if I contacted the right offices and asked the right questions." You went on to say that you did. You didn't identify the agencies.

Can you do that? Who are those agencies that are apparently not familiar with the act?

Mr. ANTIOQUIA. I purposely did not identify the specific agencies because I didn't have time to research my files, recognizing I only had a few hours to get this testimony together.

I wanted to project the attitude that I walked away from, the way I felt after my attempts to discuss this, so I would prefer at later testimony if I could be more specific because I will have the opportunity to identify very specifically.

Mr. MITCHELL. I would appreciate it because I had announced earlier that I am a little wary and I get frustrated as you do. I announced I would introduce a 5-percent cut for the Agriculture appropriations because it is not implementing Public Law 95-507, and all of the appropriations bills I intended to stand there and offer 5-percent cuts in their procurement and, given the mood of Congress, those cuts will probably go through for the wrong reasons, I will admit, but what other weapon do we have.

On the 21st we will announce our personal suit against the General Services Administration, because I am not going to permit government lawlessness. Following that suit, we are now working on a method or means by which we can get minorities to identify the extent of monetary loss that they have incurred because of the agency's not complying.

I am going to get the money to help them file their suits. The law is going to be made to work. Either that or the agencies are going to be out of business, and I will definitely need the names of the agencies that you attempted to just get some information on about Public Law 95-507 and could not.

Also, for your edification and enlightenment, as of January 20 the President issued a memorandum to all department heads in agencies telling them to set their goals for minority procurement for this year, also telling them to set up a plan by means of which personnel will be evaluated in part on the extent and degree to which they are fostering minority economic development.

That means that in terms of the personal evaluation that a director gets in the course of a year, that will be a new added item having moved toward the implementation of minority business goals.

If you have not, you don't get any points. If you have, you get some points in your evaluations, and evaluations are reflected in salary changes whether or not you get your next step in the civil service.

I wanted to say that to point out there is a lot going for us. I had the feeling Public Law 95-507 was not being implemented here. The Government spends $96 billion a year in procurement con-

tracting, $96 billion. If Public Law 95-507 were being implemented properly, I can guarantee within 2 years minority business would be at least getting $9 billion, and we are not getting it or our fair share.

That is why I filed suit and will get some other suits going to try to recover damages for our companies. Page 3 of your testimony, I wanted to comment, I am in agreement with you, paragraph 2, "Some agencies interpret the last section to mean in order for a subsidiary company to qualify, it must have a president or vice president being a member of the minority group."

I am in agreement with you. That does exceed what our intent was. If Major Clark and I and this gentleman here have a firm and we control 83 percent of the stock but we are good equal opportunity employers and we decide to hire a white guy to run the business, he is our employee; but we are still in control.

Temporarily, I am saying I think that first interpretation does exceed the letter and spirit of the law, and we will seek some furtner clarification on that.

Mr. ANTIOQUIA. That is precisely the most important point that I wanted to make in these hearings, and I appreciate your recognition of that.

Mr. MITCHELL. The last point I want to make is I am sorry you did not get sufficient notice; the Alaskan Native Indians did not get sufficient notice. I thought we had posted sufficient notice so that everyone was aware, but I can almost guarantee you that that will not happen again. Even with our best efforts to spread the word about the hearings, there are always cracks, unfortunately.

Mr. Crippen, you say that this firm has spent 1½ years trying to get certification?

Mr. CRIPPEN. Yes, sir; exhibit 1 in the testimony is the opening dialog from our files. That is the date of my telephone request that they sent us the initial application forms and supporting material to start working with.

As a matter of fact, I believe one of the representatives from your office was here last year, and we had what we felt at the time was a complete submittal application which would be roughly 1 year ago. I did not hear any negative comments coming from that particular person.

I rather felt we had done quite a decent job. If I recall correctly, the entire application was turned down because it was not adequate for this office.

Mr. MITCHELL. Then I think my office intervened again at that point.

Mr. CRIPPEN. After that comment on political influence, I have refrained from calling.

Mr. MITCHELL. Just say what you want to say. I am not going to let any agency intimidate me in terms of my wanting to help some businessman. If there is any reprisal you let me know. Go ahead.

Mr. CRIPPEN. Our most recent submittal went back together some time around the first of the year. We got everything back, if I am correct now, in November and put it back together in the new context using the new forms and so forth about the first of the year.

We had not heard anything for several months and we were informed on the fourth day of June, which was a year and a half, the day we first received the paperwork, that it had been sent out of town but we have no further information on its condition.

Mr. MITCHELL. Let me ask counsel and any other representatives from SBA that might be here in the audience, am I correct in my recollection that the Administrator of SBA, Mr. Vernon Weaver, in public testimony said all 8(a) certification should be completed within 90 days?

Is that a fair recall?

Mr. CLARK. I think you are correct on the 90-day period.

Ms. STEBBINS. Yes, sir.

Mr. MITCHELL. That is the voice of the Administrator of the entire program saying that is how long it should take to answer a certification, yes, or no.

Here we have a situation in which a year and a half has gone by and you still don't know.

I guess I would assume that the technique of getting around the 90 days is to constantly find another thing to be looked at. I guess that is probably like saying, oh, yes, we could have done it within 90 days, but as we went through your second submission we found there was a typographical error on line 2, paragraph H or something.

Mr. CRIPPEN. We compliment your great perception.

Mr. MITCHELL. I want to think on your idea about centralizing a centralized regional office for 8(a) certification. It sounds attractive, but one of the problems was that at one time all 8(a) certification was done in Washington and the field was saying that takes so long, get it out to us, and we will do it much more quickly.

Once 8(a) certification was decentralized, then we find there are still inordinate delays, so I am not sure one centralized regional office to handle 8(a) certifications is a good idea.

We will think on it.

Thank you very much. I know I have lots more questions that I scribbled down that I want to ask, but I want to try to get to as many witnesses as possible.

Thank you very much.

PANEL CONSISTING OF: AL COLQUITT, TRI-MEC SPECIALIST, INC.; HANK HARRIS, CITY WIDE VENTURES; AND BOB DAWKINS, MCI, INC.

Mr. MITCHELL. Thank you very much, gentlemen.

If you have copies of written testimony—do we have copies of your testimony?

Mr. COLQUITT. I have Tri-Mec's.

Mr. MITCHELL. Do either of you other gentlemen have copies of testimony?

Mr. HARRIS. I believe you have copies of all of the stuff I am going to talk about.

Mr. MITCHELL. Do you have copies of the testimony to be submitted for this record here this morning?

Mr. DAWKINS. No; I don't. Mr. Williams will get it over this afternoon.

Mr. MITCHELL. Let me explain how this works. We will conduct the hearings. This is written up in an official report which is to be submitted to the entire House Small Business Committee. Based on that hearing, administrative and legislative actions are recommended. Therefore, it is imperative that you submit your written testimony as quick as possible. I will be leaving you on Friday morning to go back to where the temperature is about 100 degrees, and it will help me a little bit if we could get that testimony before we depart.

Lead off for us, please, by giving your name and firm for our recorder and then your statement.

TESTIMONY OF BOB DAWKINS, PRESIDENT, MCI, INC.

Mr. DAWKINS. My name is Bob Dawkins. I am president of MCI, Minority Contractors Industrial, Inc.

I, like every other minority contractor, have had definite problems with SBA and other Federal agencies to be 8(a) approved or to get assistance in financing, administrative, technical and all the other aspects, and Alaska seems to be unique in that my partner was approved in 1969 and has not obtained a contract as of today.

Now, I am sure there are some unique problems. They always seem to come up with unique problems to keep you from obtaining 8(a) here in Alaska.

I have one other problem with it. If you are a struggling, small, and minority contractor, once you go to SBA you are certain to become bankrupt and run out of business. That is a reality. And I am talking about from Detroit all the way to Alaska. Same thing happened there. I was there in the sixties. As sure as you walk in an SBA office and obtain a loan, you might as well go home to your banker.

The record will speak for itself nationwide, not only here in Alaska.

Mr. MITCHELL. I heard what you said. I didn't mean to interrupt you and I promise you I won't from this point on, but one of the things you have got to be very careful about is painting with a broad brush any agency, just as agencies paint with a broad brush minority businesses.

I mention that because we have so many people who want to destroy the 8(a) program, and when there is testimony in effect, if you go in for a loan, you are guaranteed to fail, that becomes ammunition picked up by enemies of the minority enterprise economic development approach.

I simply want to caution all of us, and I am not attempting to castigate you, but many times our words there are words taken and used against us by those who don't want us to succeed.

I will cite three firms I helped get 8(a) certification for in 1971. I will not identify those firms for apparent reasons. Each of those firms is now in business. Each started out with an 8(a) loan program.

Each of them grossed in excess of $15 million last year, and each of them is a bona fide black manufacturing firm, one located in Virginia, one in Oklahoma, and one located in California. They would not be in business now, nor would they be grossing $15

million and above, had it not been for the fact that they got an 8(a) loan.

I am not saying that is the norm. That may be the exception, but it is very dangerous when we start saying, when we take a brush and smear across the board any agency or any group. We have to be a little cautious.

Mr. DAWKINS. Getting back to my statement, I didn't intend to imply that you would absolutely become broke, but there is no possible way SBA can administer my particular business. It is unique within itself and therefore when we try, they hinder me from being successful in what I am trying to do, and that was what I meant by that.

Normally, you are not given enough financial and technical assistance from the office, and I would almost, if you looked into it, you would almost see that that would probably be the greatest problem of failure in that when you went in, you did not or could not obtain enough financial backing. You have maybe how many companies can show a profit after 2 years? I think that is the reason why the 8(a) program is a 5-year program because it is very hard to show a profit after the first couple of years.

I don't know here if we look in Alaska at how many minority 8(a) contractors, how many blacks, Hispanics, Asians that are 8(a) contractors.

One of the problems we have up here, we first have to go through the battle of proving we are qualified. We are the ones that do the work all the time. We qualify when we walk in there. I have been a self-contractor for 25 years and that means that my work, if I got paid, has been approved for 25 years by the local establishment or government agency, or whoever is in charge, and we just keep going through this stumbling block constantly, and it is too much paperwork.

I am sure it was a typographical error, but the letter from your office said 50 copies. Well, that would stop my whole staff. We would have to stop working on everything we were doing to get you 50 copies.

Mr. MITCHELL. It was quite accurate there. There are approximately 50 members who serve on the House Small Business Committee and each one of them is entitled to see a copy of your testimony. That is one of the reasons I come out for hearings. I know it is difficult for a small business to comply with the rules and regulations of the House of Representatives in terms of supplying each member with a copy. Quite often in the past if a company said it will be tough for us to give you 50 copies, I don't mind using the taxpayer's money to run off the 49 copies. That is required. It was not a typographical error.

Mr. DAWKINS. Each time small business gets involved in the large bureaucratic system, a burden is put down on us so heavy it turns us away. We say we don't even want to go down there because we are not going to get through the first phase of it.

Like the 8(a), you look good on the first part, but they always seem to kick you out on the second part. I thought the intent of it was to help in making it easier for small business.

I know my time is running out but I just want to say that each time we come to an agency of the Federal Government, we are

bogged down with so much paperwork until the smallest business almost will just rather not go.

I am open for any questions.

Mr. MITCHELL. Thank you very much. I am sure we will have some questions.

Mr. Colquitt?

TESTIMONY OF AL COLQUITT, TRI-MEC SPECIALIST, INC.

Mr. COLQUITT. Congressman Mitchell and Major Clark, first I would like to thank you for having me to appear, and I direct your attention to the back page, three or four pages where it stipulates socially disadvantaged, and the reason I direct you there, because it lends to my statement of testimony.

If I may, I would like to read the socially disadvantaged. I would like to stipulate that this is the latest procedure for that application for the 8(a) program. Supposedly, it comes in the form of two steps. This is supposed to be the first step under the new system.

Socially disadvantaged. The ignorance of racial prejudice is a cancerous thing. It will eat at a person until, hopefully, that person is finally dead. I, however, refuse to die. I have been placed in this world of ignorance simply because I was born black. As a child in Georgia, I was forced to live in the segregated world of the "white folks" by living in a certain section of town, riding at the rear of the bus, using black water fountains, black toilets, and attending an all-black school.

The black schools could not afford buses like the white schools, so during all my school years I had to utilize public transportation when money was available. I had to take three different buses across town. If money was not available I walked 10–12 miles, and coming from a poor family I did more walking than riding.

Through a local resident who was also my mother's employer, I was accepted into the Air Force after graduation. However, military life was really no different. The blacks were still segregated by their barracks, clubs, schools, and people. The only thing the blacks were given freely was extra duties more often.

Off base was even worse. Friendships with white buddies were left on base as outside clubs and other entertainment facilities would not accept blacks. My whole 20 years in the Air Force was one continual time of having to prove myself and capabilities. My technical qualifications and ability were constantly questioned and challenged until I proved to my white supervisors that I could handle the job and correct the problem. Then the boss was pleased, but only because I had made them look good.

After I became sergeant and a supervisor, it was still bad as many men did not like having a black boss. As I've said, this went on for over 20 years and integration of the Air Force did only one thing, the blacks and whites shared the same barracks. Everything else was the same. It is interesting to note that even a God-fearing organization as the Masons, of which I am a member, has complete segregation. I belong to an all-black chapter and our elite fraternity is termed "Free and Accepted Masons," but not being free to intermingle with the white members in their chapters.

After I retired from the Air Force, civilian life was just as bad. Even though I have 20 years in electronics and was a master in my

trade, I was offered by employers a menial job with less pay rather than the technical job I was applying for. Finally, after a year and a half, I was able to get a technical job with BLM but only because I claimed vet status, I'm sure. I have been faced with prejudice even from government employees that I worked with because they feel blacks should be seen and not heard and they didn't like it because I had the technical knowledge to perform my job.

Our business, Tri-Mec Specialist, has been given this same dogma that I have had all my life. The business community will use you but will not permit you to grow and/or develop. Again, be seen but not heard. As long as the white business world could use you for their purposes, they smile and pat your back. When they find out you can speak and will not be used, they turn their backs. They all seem to have the impression that because you are black you are also very stupid.

The business world in Alaska is not different or less prejudiced than the community I was raised in. They want the black men to step to the back of the line and not go any further. They not only will not let us drink from the white fountain, they won't even let us build it. I have had more than my share of these bigots to date, and I know it will not improve in the near future.

I bid with one general contractor on a project. Now this company was supposedly a minority firm, but not a black one, that had gotten an 8(a) set-aside project. I worked up the bid with the information he had given me. He then informed me my bid was way too low and he would not accept it. When I tried to question him and get more information, I was informed I was working from a lean-to, an indication I would not do the job, when in reality I had a 5,700-square foot shop.

I was faced with open hostility because I had not only had the nerve to bid the job and bid it competitively low, I also had the nerve to question why I could not get the contracts. The gentleman made no effort to assist me or negotiate the price. It seems ironic as he was given the contract in the first place because supposedly he is also disadvantaged. Of course, the minority of this gentleman could be questioned, as he could pass for white.

Another example, a government contract was put out to bid. We worked up our bid and submitted it to the general contractors that were going to be bidding. After the contract was let, I submitted more information and a revision to the company that had been awarded the contract. Everything was fine until I met the man face to face—the phone does not show color. I was informed approximately 3 weeks later when I called the man as a followup that they had decided to use metal wardrobes rather than wood and laminate. Nothing was said about the bathroom vanities that could not be made from metal, but then nothing needed to be said, his face had said it all when he met me.

The above are but two examples of my everyday dealings with the white business world. The same type of examples are an ongoing facet of my business life and I cannot seem to break the chain no matter how hard I try. My color alone has stereotyped me into being lazy, sloppy, ignorant, and useless. No one ever thinks, or tries, to see my abilities, qualifications, or capabilities.

Even the Government, who says we must not discriminate, does itself what it tells others not to do. They make a big to-do about getting you listed as a minority firm so they can help you. You fill out their questionnaires and return it to, supposedly, be on their mailing list for upcoming projects. We are on their mailing lists but they have never mailed us anything.

We even wrote individual personal letters to all the housing authorities in the State introducing ourselves as a minority business and requesting to be on their mailing list. I guess that word minority blew it because only 1 out of 15 or 20 even acknowledged our letter. We are on the mailing list for Elmendorf Air Force Base as a minority firm and we do get requests for bids which we return with the bid quote. To date, at the time of this particular letter, we have not heard one word regarding any of our bids.

As I have said, my color stereotypes me into a class of people that general contractors feel they do not want to deal with. If they would only take the time to shove this screen of ignorance aside, they would find that inside I am the same color as they are and outside my performance can match theirs, maybe even exceed theirs, because I have to work and try three times harder than they do because their outside is white and therefore they are OK.

The above reasons are why I wish to participate in the 8(a) program. The Government claims they do not care what color you are as long as you can perform. All I am asking is that you give me a chance to perform and see me as Al Colquitt, the qualified man, rather than Al Colquitt, the black.

I might insert here, I am black and proud. The 8(a) program will give me the jobs and work I need to again prove myself, but hopefully this time with the dignity and pride I feel I have earned through these last 40-some years of oppression. Although the 8(a) contracts will not remove prejudice from the white business world, it will be a tremendous aid for our business until we can become established and truly competitive in the market, as our products and services are used and needed by the Government as well as the civilian counterpart. This work will enable us to prove ourselves without having to beg for the chance. Only through regular work and growth will we be able to hopefully push our way through the wall of ignorance and bigotry. Hopefully, the Government, through the 8(a) program, will show me that it is not only OK to drink from that white fountain, but I can even help build it.

My testimony, I read to you in December 1978, and this is on the first page, sir.

Mr. MITCHELL. Just a moment. Automatically, your entire testimony is submitted for the record, so you are free to excerpt from it and make the major points that you so desire.

Thank you.

Mr. COLQUITT. As a matter of fact, in December 1978 when there was a requirement for 14 points, that was the old procedure for the 8(a) program to prove that you are a minority. While I don't think I have any problem in doing that, unless I am color blind, and I don't think I am that——

Mr. MITCHELL. You won't have with me.

Mr. COLQUITT. Nevertheless, we had 14 points to prove that you are really a minority. Well, now the procedure is that you—well, it

is in two stages. You send in your social and economic proof that you are socially and economically disadvantaged. Once this is approved—now this is the way it was explained to me—once this is approved, then they will come back and ask you for a part 2, all the financial data for such, for your next step, and then this goes forward.

OK, I might read this.

This letter, correction, it says here, Since the above letter, we have received our general contractor's license with hopes that we can receive the 8(a) program and get work that we know exists in general contracting and other work of our total capabilities.

We have entertained this suggestion from SBA itself, general contracting, as well as expended vast amounts of moneys that have been hard to come by, such as $800 for a CPA financial statement which is necessary, supposedly, in this new procedure for application.

At the present time, I am highly confused by the constant additions of needs for the applications. When you furnish one thing, then something else crops up that is needed.

I made conference with SBA representatives to find out exactly what was needed for the first stage to get the application moving on the latest application for the 8(a) program. I was told that this was to be in two stages: The first stage was to show socially and economically disadvantaged, of which you will find a copy as submitted. This copy should reveal to date of what I am going through at present as well as the past. The second stage, after approval and to certify that you are a minority, need help, and have been treated like an animal, is to submit a financial statement and other financial documents.

However, during the first stage, of which I am at present, I have been constantly receiving requests for the second portion addition, with the statement, "They have changed it again" or "I am just as confused myself but this is what they want."

It appears that I will be going through the same ritual all over again at a much more monetary cost as well as extreme man hours consumed without a concrete and/or positive results.

I would like for you to reference the letter from Congressman Don Young dated July 23, 1979, paragraph 2: "But their other services should be looked into because they could be of some benefit to you."

I have yet to receive knowledge of or action of whatever these services, really and truly services, he is talking about from SBA, period.

I have worked very closely with SBA to the very best of my ability. I have participated in their program with the local unions, and as students get their master degrees, them running a survey on my cooperation of which I ran into very, very difficult problems, because in essence, and I will submit this to your panel if need be, the total report which indicated to me, my interpretation, "Little black boy, pick up your ball and go home because you can't make it in this world."

Well, I refuse to accept that. I will make it in this world. I will make it. I won't quit. The word can't is not in my vocabulary. I don't believe in can't.

These are my recommendations:

I strongly recommend that the sanction programs that have been established by our government for SBA to administer be administered with competence and in the manner and for the purpose in which they were sanctioned. I do not feel that any of the programs are serving the needy minorities, and especially the black minorities, to any degree with competence and sincerity, but rather with a token to indicate that something has been done for the blacks.

I question not the programs themselves, but the administration of these programs that leaves any enterpreneur hanging on a limb as the interest in the small businessman to grow and prosper is not the administration's intent through these programs.

For example, positive training, if needed, rather than harassment; proving actual work projects that are positively within Federal agencies' boundaries and available that would permit cash flow necessary to solidly establish themselves and service their debts; make known these programs to all small businessmen by direct contract, correspondence, or telephone communication; make direct loans available from the government rather than the bank guaranteed as this method is not for real with the small businessman.

The fact is this method is strictly a copout for SBA as the banks do not work with the small businessman, and especially the black small businessman. The funds should be sufficient that the small businessman can have adequate cash flow, proper facilities and equipment that is necessary for him to have a decent foothold. Under the present configuration of administration, the whole system is designed for failure for most and not for growth.

I strongly recommend that the 8(a) determination [approval/disapproval] should not be administered by SBA as there is a conflict of interest such as: determination of who receives the 8(a) program as well as who receives what jobs or contracts under the 8(a) program. As our structure of government of check and balance, so should there be within the different agencies of our government.

I would recommend that the application be prepared by another government sanctioned and/or financed organization, such as Alaska Business Development Center and approved only in Washington, D.C.

Further, I feel that a scree. ; process should be employed in this office as even the employment of minorities in competent positions, or relatively any position, in this government agency is very, very much lacking. This in itself is amplifying the fact that there must be a thought of this administration that the minorities are incompetent or there is a fear.

As in many other government agencies, personnel, especially key positions, should be rotated or replaced every 2 years. The selection of the director replacement should be reviewed by the Committee on Small Business with the Committee on Small Business having a definite impact on the final selection thereof.

On behalf of Tri-Mec Specialist, Inc., I thank you very kindly for giving me this opportunity to express freely our encounters, plight, and to state our recommendations that we feel would be beneficial to the total operation.

[Mr. Colquitt's prepared statement and attachments follow:]

PREPARED STATEMENT OF AL COLQUITT, TRI-MEC SPECIALIST, INC., CHUGIAK, ALASKA

In December 1978, I made application for the 8(a) program. I refer your attention to the copy of a letter dated June 6, 1979 to Congressional members of the State of Alaska and other, hopefully, interested people and/or organizations that could lend to our cause. This letter, as you will note, explains in sequential order by date of incidents that transpired. Documentation to verify the contents of this letter are also enclosed. I would further like to add that basically, to date, the same problem exists. As of today (July 2, 1980) I am still in the process of trying to become a recipient of the 8(a) program. Since the above letter we have received our general contractor's license with hopes that we can receive the 8(a) program and get work that we know exists in general contracting and other work of our total capabilities. We have entertained this suggestion from SBA itself (general contracting) as well as expended vast amount of moneys that has been hard to come by, such as $800 for a CPA financial statement which is necessary, supposedly, on this new procedure for application. At present time, I am highly confused by the constant additions of needs for the application. I made conference with SBA representatives to find out exactly what was needed for the first stage to get the application moving on the latest application for the 8(a) program. I was told that this was to be in two (2) stages: the first stage was to show socially and economically disadvantaged, of which you will find a copy as submitted. This copy should reveal to date of what I am going through at present as well as the past. The second stage, after approval and to certify that you are a minority, need help, and have been treated like an animal, is to submit a financial statement and other financial documents. However, during the first stage, of which I am at present, I have been constantly receiving requests for the second portion addition, with the statement "They have changed it again" or "I am just as confused myself but this is what they want". It appears that I will be going through the same ritual all over again at a much more monetary cost as well as extreme man hours consumed without concrete and/or positive results. I would like for you to reference the letter from Congressman Don Young dated July 23, 1979, Para 2: "But their other services should be looked into because they could be of some benefit to you." I have yet to receive knowledge of, or action of, whatever these services he is talking about from SBA period.

RECOMMENDATIONS

I strongly recommend that the sanction programs that have been established by our government for SBA to administer, be administered with competence, and in the manner and for the purpose in which they were sanctioned. I do not feel that any of the programs are serving the needy minorities, and especially the black minorities, to any degree with competence and sincerity, but rather with a "token" to indicate that something has been done for the blacks. I question not the programs themselves, but the administration of these programs that leaves any entrepreneur hanging on a limb as the interest in the small business man to grow and prosper is not the administration's intent through these programs. For example: positive training, if needed, rather than harassment; providing actual work projects that are positively within federal agencies boundaries and available that would permit cash flow necessary to solidly establish themselves and service their debts; make known these programs to all small business men by direct contact, correspondence, or telephone communication; make direct loans available from the government rather than the bank guaranteed as this method is not for real with the small business man. The fact is this method is strictly a "cop out" for SBA as the banks do not work with the small business man, and especially the black small business man. The funds should be sufficient that the small business man can have adequate cash flow, proper facilities and equipment that is necessary for him to have a decent foothold. Under the present configuration of administration the whole system is designed for failure for most and not for growth.

I strongly recommend that the 8(a) determination (approval/disapproval) should not be administered by SBA as there is a conflict of interest, such as: determination of who receives the 8(a) program as well as who receives what jobs or contracts under the 8(a) program. As our structure of government of check and balance, so should there be within the different agencies of our government. I would recommend that the application be prepared by another government sanctioned and/or financed organization, such as Alaska Business Development Center, and approved only in Washington, D.C. Further, I feel that a screening process should be employed in this office as even the employment of minorities in competent positions, or relatively any position, in this government agency is very very much lacking. This in itself is amplifying the fact that there must be a thought of this administration

that the minorities are incompetent or there's a fear. As in many other government agencies, personnel, especially key positions, should be rotated or replaced every two (2) years. The selection of the Director replacement should be reviewed by the Committee on Small Business with the Committee on Small Business having a definite impact on the final selection thereof.

On behalf of Tri-Mec Specialist, Inc. I thank you very kindly for giving me this opportunity to express freely our encounters, plight, and to state our recommendations that we feel would be beneficial to the total operation.

FEBRUARY 28, 1979.

WILLIAM CLEMENT,
Associate Administrator for Small Business and Capitol Ownership Development, Washington, D.C.

DEAR MR. CLEMENT: I write this letter as a follow-thru of my telephone conversation with Mr. Frank Baird on February 16, 1979, and as a recipient of an EDL loan through the SBA EOL Program.

In December 1978, I made applications for the 8(a) program, of which I feel will be very beneficial to our growth and prosperity and placing us in a more sound position to assist other minority and small businesses through these government contracts. However, I am still at a loss and lack the understanding, or with a clear reason, why my application still remains at the District Office level after this period of time, preventing consideration by the Regional Office and your office for approval. We have complied with all the requests, including the 14 specific points, as levied. I am informed that the applications are being detained at Regional level, for whatever reasons I do not clearly understand. However, our application still remains at District level, as stipulated above. I do not intent for our Corporation to solely use the 8(a) program, but I feel that it is very necessary and most important that we be given the opportunity to be a part of this important program. As an eligible minority firm, I say to you, as I have stipulated throughout the application documentation for the 8(a) program, that the struggle has not been, and is not, easy to compete equally or effectively in the existing markets.

As time is a very important factor in realizing progress, goals, utilizing full management capabilities, and to effectively fulfill obligations, I ask most sincerely on behalf of my Corporation and other eligible 8(a) applicants, that we may realize the aforementioned items, that the detaining obstacles be removed so that the flow process of 8(a) applications can begin.

Thank you very kindly for your consideration and your immediate attention to this matter would be greatly appreciated.

Sincerely yours,

ALBERT D. COLQUITT, *President.*

P.S. Reference my letter dated January 22, 1979, Subject: "Letter of Appreciation"—please advise as to your receipt thereof and disposition.

U.S. SMALL BUSINESS ADMINISTRATION,
Anchorage, Alaska, March 21, 1979.

Mr. ALBERT COLQUITT,
Tri-Mec Specialist, Inc.,
Chugiak, Alaska.

DEAR MR. COLQUITT: This letter is to make you aware of the action taken by the Small Business Administration. The 8(a) Review Board met on March 13, 1979. The recommendation that the board made was to decline your application. The decision was made because of a number of factors.

The board felt that you lacked the necessary organization and experience in general contracting, and operational controls to develop to the level that you project. The board also felt that you did not have access to the cash or credit from banks or financial institutions to meet your growth requirements.

The board was also concerned about the recent problems that you have had in the receivables area of your company.

The Small Business Administration felt that there was not adequate support available in the market area for a cabinet manufacturer. You will recall that we discussed that problem at length.

I would suggest that you talk with Mr. Frank Cox, District Director if you choose to try and change the recommendation.

The application that you submitted will be sent to the Regional level and the Washington, D.C. office for their final approval or disapproval. You should talk with the District Director before the Region makes their recommendations.

Sincerely,

DAVID O. YANCEY,
Business Management Specialist.

Sales history.—Contracts awarded—Fairview Enterprises, A. K. Knighten, William Sumner, commercial and residential accounts.

Commercial:

Fiscal year:	
1976	10,000
1977	5,000
1978	30,000
Year-end to date as of December 1978	70,000

Size of contract.—Contracts range from $600 to $70,000.

PROJECTION

	First year	Second year	Third year	Fourth year
8(a) Projected support	$80,000	$160,000	$120,000	$120,000
Commercial sales	40,000	70,000	85,000	95,000
Other Government	50,000	90,000	115,000	175,000
Total	170,000	320,000	320,000	390,000

Pro-forma balance sheets have been provided showing feasibility of that level of activity.

Bondability.—Has not been able to bond due to weak financial position.

Marketing.—Marketing is being done in the following areas:

1. Competitive bidding on Association of Contractor lists.
2. Commerical sales—Seeking outlets through Home Builder Sales organizations, Spenard Builders, United Builders, Sears, Pay-N-Pak, etc.
3. Seeking 8(a) and State set aside projects.
4. Personal contact with local developers.

Financial.—Financial statements show increase in business activity from 1975 to present. Mr. Colquitt's financial statements show high levels of accounts receivables. He has had difficulty being paid for contracts that were completed.

Profits for past 3 years.

Net profit/loss

1975–76	−$6,343
1976–77	−4,374
1977–78	10,872
1979	71,771

U.S. GOVERNMENT,
SMALL BUSINESS ADMINISTRATION,
Washington, D.C.

MR. ALBERT COLQUITT,
President, Tri-Mec Specialist, Inc.
Chugiak, Alaska.

DEAR MR. COLQUITT: We regret to inform you that your firm has been determined ineligible for 8(a) program participation.

Current 8(a) program eligibility criteria, pursuant to Public Law 95–507, require that to qualify for participation in the program, the SBA has to determine that sufficient contract support is available to meet the business plan projections of an applicant concern. If such support is not available, the applicant will be declined participation in the program.

Tri-Mec Specialist, Inc., does not meet his criteria because we have determined at this time, that contract support is not available to meet the business plan projections of your firm.

Sincerely,

WILLIAM A. CLEMENT, JR.,
Associate Administrator for Minority Small Business.

TRI-MEC SPECIALIST, INC.,
Chugiak, Alaska.

I write this letter to ask for assistance, as well as in protest against the principal of operations employed, and the unjust results received pertaining to my being considered for the 8(a) program. At this point, before continuation, please read my Attachment 1 dated February 28, 1979, (of which as of this date, we have not received a reply) that you may have a true flow of thought and realization of what has transpired to date.

The purpose of writing this letter, as so suggested by SBA, was because I could not receive constructive answers as to the true status of my application on the local level here. I always received vague answers and an attitude of "Pass-the-Buck" type answers, ie, "The board has not met yet, they cannot get a quorum"; "They request additional information from Region"; "I know you are a minority, but they have increased the points to 14 points that must be answered to justify (in essence) your being a minority", etc. When I made application for and discussed at length the 8(a) Program and the intended purpose of the 8(a) Program, it was requested by SBA that SBA be permitted to assist in preparation of the 8(a) application (since I was a recipient of an EOL loan) in lieu of having the Alaska Business Development Center assist in preparing the 8(a) application. The Alaska Business Development Center was very constructive and instrumental in assisting me in preparing our application for the EOL loan. SBA's request for preparing this 8(a) application was acknowledged and all information requested furnished. I might add that all furnished information was most factual and the same information furnished was utilized in preparation of our EOL Loan. SBA further requested, after the EOL loan approval, that I participate in the college student thesis program for their master degree. This I did, in many man hours, only to be condemned with non-factual documentation, accusations, and, in essence to say, "You don't need to be in business, and especially in cabinet making because you cannot make it under any circumstances". It was especially noted in this student's report and different conferences with me, that he was striving to please the instructor and to obtain a passing grade at any cost and/or expense. After this report by the student, and my letter of February 28, everything went sour thru SBA. I do not feel that my letter was derogatory in any form or fashion, but merely seeking information as to the application's detainment.

Soon thereafter, as a matter of fact, on approximately March 15, 1979, I received a call from Mr. David Yancey of SBA here in Anchorage, that my application had been declined. First of all, I find this a conflict of interest as my application was prepared by the experts themselves who administer the 8(a) program, and they declined their own work in my behalf. The reasons that were given to me over the phone were very disturbing and I was advised that I should contact the District Director, Mr. Frank Cox. This I did, via telephone, and I requested conference, of which I was advised that because of a tight schedule that he would not be able to meet with me but was not denying me conference, but that I could discuss with him now over the phone the problem. Getting into the discussion, I was advised that the 8(a) program was strictly a training program only. I found this to be totally contradictory according to all the documents that I had received on the 8(a) program, as well as information received via professional people, both in SBA and other organizations. Even if it is strictly a training program, why am I being denied the opportunity of having that training? Mr. Cox advised me that I had had four (4) years of no profit (loss) in the Corporation, in which I immediately replied that he was in error as we are (1) operating under Sub Chapter S, which does not permit even three years without showing a profit, and (2) Mr. Cox was advised that we are operating on a fiscal year basis, we had not yet filed our fourth year return. Obviously rationalization began and vague answers poured forth without any consideration whatsoever. Both Mr. Yancey and Mr. Cox were not aware of the law of Sub Chapter S. I requested and received a letter from SBA (see attachment 2) spelling out the reason for the decline. Now, please be advised that I am accused of lacking necessary organization and experience, however it was through my management that I controlled the flow of monies and research necessary to put up a 5,700 square foot concrete block structure that has a value in excess of $250,000.00 for a cost of approximately $85,000.00 of the $100,000.00 EOL Loan, the balance going

into closing costs, land payoff, taxes, etc. I challenge any contractor, SBA manager, or any other management personnel to manage any better. Sure, working capital has always been low, but only through good management practices did my corporation survive with so little to work with. As a recipient of the EOL Loan, I find it very difficult to understand how, on one hand I be granted an EOL Loan and then turn around and be denied the opportunity to participate in these sanctioned programs, especially the 8(a) program, from which we could receive this training, as stipulated in attachment 2, as well as obtaining contracts that would allow us to pay back this loan perhaps in a shorter period of time. What is the purpose of the 8(a) program?

I spent over 20 years in the military service and an additional 7 years, after retirement from the service, with the U.S. Federal Government. Out of better than 27 years with the Government, never have I seen an operation of the government that could turn so biased as we have been faced with recently. It appears to me that the intended purpose of the 8(a) program is being violated by the source of issue. I can only stipulate the facts as I have been faced with.

As my application is presently in Washington, D.C., for the final decision, I am asking that you intervene and see that we get just and unbiased consideration for becoming a recipient of the 8(a) program. This is my livelihood and I feel that I could effectively use this program to assist in repaying the loan that I did receive, and developing our business per the intention of the 8(a) program, and as stipulated in my letter of February 28, 1979.

Please be advised that I do not have a copy of my 8(a) application packet as went forward, but I do feel that there must be something left out, improperly documented, and/or non-factual documentation, but rather based on hearsay, otherwise why was it declined?

Thanking you and your staff very kindly in advance for your assistance in this matter, I remain.

Respectfully yours,

ALBERT D. COLQUITT, *President.*

U.S. SENATE,
Washington, D.C., July 16, 1979.

Mr. ALBERT COLQUITT,
Tri-Mec Specialist, Inc.,
Chugiak, Alaska.

DEAR ALBERT: Thank you for letting me know of the problems you have encountered in your application to the 8(a) Business Development Program of the Small Business Administration.

There are several points which you raised in your letter which should be investigated with regard to how the Anchorage SBA office has been handling applications to the 8(a) program. I have written to the Administrator of the Small Business Administration to ask that he personally look into your situation. A copy of the letter is enclosed. As you will see, I have also indicated that this is not an isolated case, but that other minority small business owners have voiced similar complaints to your own.

When I have a response from the SBA, I will be back in touch, Albert. I appreciate your bringing this matter to my attention.

With warm regards.

Sincerely,

MIKE GRAVEL.

Enclosure.

U.S. SENATE,
Washington, D.C., July 16, 1979.

Hon. A. VERNON WEAVER,
Administrator, Small Business Administration,
Washington, D.C.

DEAR MR. WEAVER: Recently I was contacted by a constituent whose application to the 8(a) Business Development Program was declined. Albert D. Colquitt filed his application for the 8(a) program in December, 1978 and received a letter from the Small Business Administration office in Anchorage informing him of the unfavorable response to his application on March 21, 1979. There were several instances during the processing of that application that Mr. Colquitt believes SBA officials did not proceed in an appropriate manner. These instances are underlined in the enclosed letter. It should be noted that this is not the first time this year that I have

been contacted with complaints form minority small business owners regarding the Small Business Administration's handling of applications.

I would appreciate your looking into the actions taken by the Small Business Administration office in Anchorage with regard to Mr. Colquitt's application. Of particular concern to me is the misinformation and lack of information given to Mr. Colquitt when inquiries were made as to the status of his application.

Thank you for your attention to this matter.

Sincerely,

MIKE GRAVEL.

Enclosure.

U.S. SENATE,
Washington, D.C., July 19, 1979.

Mr. ALBERT COLQUITT,
President, Tri-Mec Specialist, Inc.,
Chugiak, Alaska

DEAR AL: Enclosed is a copy of a letter we have received from William A. Clement of the Small Business Administration in response to my inquiry on your behalf. If we may be of further assistance, please do not hesitate to contact our office again.

With best wishes,

Cordially,

TED STEVENS.

Enclosure.

U.S. GOVERNMENT,
SMALL BUSINESS ADMINISTRATION,
Washington, D.C.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: This is in reply to your letter of June 14, 1979, to Ms. Eleanore Ellenese of our Office of Congressional Relations on behalf of Mr. Albert D. Colquitt, president, Tri-Mec Specialist, Inc., of Chugiak, Alaska. In a letter to you dated June 6, 1979, Mr. Colquitt expressed concern about the processing of his application to participate in the Small Business Administration's 8(a) program. We have been asked to reply to you directly.

As you may know, the initial processing of applications to participate in the 8(a) program is conducted at local field offices of the Small Business Administration. Preliminary determinations are made at that level as to whether applicant meets eligible requirements and whether SBA can reasonably expect to be able to provide the assistance necessary for the firm's development. The regional offices of SBA conduct reviews of the findings of the local offices within their regional areas and forward the regional recommendations to SBA's Central Office. Final determinations of eligibility are made by this office.

Our inquiry into this case develops that Mr. Colquitt was advised by this office by letter of June 5, 1979, that the applications of Tri-Mec Specialist, Inc., was declined because SBA has determined that there is insufficient procurement opportunities available at this time to meet the contract needs of the firm. Public Law 95-507 provides that a firm's application to participate in the 8(a) program can be authorized only if there is a reasonable likelihood that appropriate contract opportunities will be available to SBA to support the firm's development.

We regret any misunderstanding that may have occurred. We also regret that we are unable at this time to provide contract support to Tri-Mec Specialist. We do urge Mr. Colquitt to participate in other services to small businesses that are available at our Anchorage District Office.

Thank you for your interest in this matter and in our Agency.

Sincerely,

(Signed) JOSEPH J. LUNA,
William A. Clement, Jr., *Associate Administrator for SBA.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1979.

Mr. ALBERT D. COLQUITT,
President, Tri-Mec Specialist, Inc.
Chugiak, Alaska.

DEAR MR. COLQUITT: I have received information concerning your case from the Small Business Administration. They have stated the laws they must adhere to, and their subsequent reasons for declining your application to participate in the 8(a) program. I hope this information sufficiently explains the situation to you.

It is unfortunate that they can not at this time provide contract support to Tri-Mec Specialist, but their other services should be looked into because they could be of some benefit to you.

If I can be of any other assistance to you, please don't hesitate to contact me again.

Best regards.

Sincerely,

DON YOUNG,
Congressman for All Alaska.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., July 17, 1979.

Hon. DON YOUNG,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN YOUNG: This is in response to your letter of June 16, 1979, on behalf of Mr. Albert D. Colquitt, president, Tri-Mec Specialist, Inc., of Chugiak, Alaska. In a letter to you, dated June 6, 1979, Mr. Colquitt expressed concern about the processing of his application to participate in the Small Business Administration's 8(a) program.

As you may know, the initial processing of applications to participate in the 8(a) program is conducted at local field offices of the Small Business Administration. Preliminary determinations are made at that level as to whether applicant meets eligibility requirements and whether SBA can reasonably expect to be able to provide the assistance necessary for the firm's development. The regional offices of SBA conduct reviews of the findings of the local offices within their regional areas and forward the regional recommendations to SBA's Central Office. Final determinations of eligibility are made by the Associate Administrator for Minority Small Business and Capital Ownership Development (AA/MSB-COD) here in the Central Office.

Our inquiry into this case develops that Mr. Colquitt was advised by the AA/MSB-COD by letter of June 5, 1979, that the application of Tri-Mec Specialist, Inc., was declined because SBA has determined that there is insufficient procurement opportunities available at this time to meet the contract needs of the firm. Public Law 95-507 provides that a firm's application to participate in the 8(a) Program can be authorized only if there is a reasonable likelihood that appropriate contract opportunities will be available to SBA to support the firm's development.

We regret any misunderstanding that may have occurred. We also regret that we are unable at this time to provide contract support to Tri-Mec Specialist. We do urge Mr. Colquitt to participate in other services to small businesses that are available at your Anchorage District Office.

Thank you for your interest in this matter and in our Agency.

Sincerely,

A. VERNON WEAVER, *Administrator.*

SOCIALLY DISADVANTAGED

The ignorance of racial prejudice is a cancerous thing. It will eat at a person until, hopefully, that person is finally dead. I, however, refuse to die. I have been placed in this world of ignorance simply because I was born black. As a child in Georgia, I was forced to live in the segregated world of the "white folks" by living in a certain section of town, riding at the rear of the bus, using "black" water fountains, "black" toilets, and attending an all black school. The black schools could not afford busses like the white schools, so during all my school years, I had to utilize public transportation when money was available. I had to take 3 different

busses across town. If money was not available I walked 10–12 miles, and coming from a poor family I did more walking than riding. Thru a local resident, who was also my mother's employer, I was accepted into the Air Force after graduation. However, military life was really no different. The blacks were still segregated by their barracks, clubs, schools and people. The only thing the blacks were given freely was extra duties more often. Off base was even worse—friendships with white buddies were left on base as outside clubs and other entertainment facilities would not accept blacks. My whole 20 years in the Air Force was one continual time of having to prove myself and capabilities. My technical qualifications and ability were constantly questioned and challenged until I proved to my white supervisors that I could handle the job and correct the problem. Then the boss was pleased, but only because I had made them look good. After I became Sgt and a supervisor, it was still bad as many men did not like having a black boss. As I've said, this went on for over 20 years and integration of the Air Force did only one thing—the blacks and whites shared the same barracks—everything else was the same. It is interesting to note that even a Godfearing organization as the Masons, of which I am a member, has complete segregation. I belong to an all black chapter and our "elite" fraternity is termed "Free and Accepted Masons", but not being free to intermingle with the white members in their chapters.

After I retired from the Air Force, civilian life was just as bad. Even though I have 20 years in Electronics and was a master in my trade, I was offered by employers, a menial job with less pay rather than the technical job I was applying for. Finally, after a year and a half, I was able to get a technical job with BLM but only because I claimed Vet status, I'm sure. I have been faced with prejudice even from government employees that I worked with because they feel blacks should be seen and not heard and they didn't like it because I had the technical knowledge to perform my job.

Our business, Tri-Mec Specialist, has been given this same dogma that I have had all my life. The business community will "use" you, but will not permit you to grow and/or develop. Again—be seen but not heard. As long as the white business world could use you for their purposes they smile and pat your back. When they find out you CAN speak and will not be used, they turn their backs. They all seem to have the impression that because you are black you are also very stupid. The business world in Alaska is no different, or less prejudiced, than the community I was raised in. They want the black men to step to the back of the line and not go any further. They only will not let us drink from the "white" fountain, they won't even let us build it. I have had more than my share of these bigots to date, and I know it will not improve in the near future.

I bid with one general contractor on a project. Now, this company was supposedly a minority firm, but not a black one, that had gotten an 8(a) set aside project. I worked up the bid with the information he had given me. He then informed me my bid was way too low and he would not accept it. When I tried to question him and get more information, I was informed I was working from a lean-to (an indication I would not do the job), when in reality I had a 5,700 sq. ft. shop. I was faced with open hostility because I had not only had the nerve to bid the job and bid it competitively low, I also had the nerve to question why I could not get the contracts. The gentleman made no effort to assist me or negotiate the price. It seems ironic as he was given the contract in the first place because supposedly he is also disadvantaged. Of course, the "minority" of this gentlemen could be questioned, as he could pass for white.

Another example—a government contract was put out to bid. We worked up our bid and submitted it to the general contractors that were going to be bidding. After the contract was let, I submitted more information and a revision to the company that had been awarded the contract. Everything was fine until I met the man face to face (the phone does not show color). I was informed approximately 3 weeks later when I called the man as a follow-up, that they had decided to use metal wardrobes rather than wood and laminate. Nothing was said about the bathroom vanities that could not be made from metal but then, nothing needed to be said—his face had said it all when he met me.

The above are but 2 examples of my everyday dealings with the white business world. The same type of examples are an ongoing facet of my business life and I cannot seem to break the chain no matter how hard I try. My color alone has stereotyped me into being "lazy", "sloppy", "ignorant", and "useless". No one ever thinks, or tries, to see my abilities, qualifications or capabilities.

Even the government, who says we must not discriminate, does itself what it tells others not to do. They make a big "tadoo" about getting you listed as a minority firm so they can help you. You fill out their questionnaires and return it to, supposedly, be on their "mailing list for upcoming projects". We are on their

mailing lists but they have never mailed us anything. We even wrote individual personal letters to all the Housing Authorities in the State introducing ourselves as a Minority business and requesting to be on their mailing list. I guess that word—minority—blew it because only one out of 15 or 20 even acknowledged our letter. We are on the mailing list for Elmendorf AFB as a minority firm and we do get requests for bids which we return with the bid quote. To date we have not heard one word regarding any of our bids. As I have said, my color stereotypes me into a class of people that general contractors feel they do not want to deal with. If they would only take the time to shove this screen of ignorance aside they would find that inside I am the same color as they are and outside my performance can match theirs, maybe even exceed theirs because I have to work and try 3 times harder than they do because their outside is white and therefore they are "OK".

The above reasons are why I wish to participate in the 8(a) program. The government claims they do not care what color you are as long as you can perform. All I am asking is that you give me a chance to perform and see me as "Al Colquitt, the qualified man" rather than "Al Colquitt, the black". The 8(a) program will give me the jobs and work I need to again "prove myself", but hopefully this time with the dignity and pride I feel I have earned through these last 40 some years of oppression. Although the 8(a) contracts will not remove prejudice from the white business world, it will be a tremendous aid for our business until we can become established and truly competitive in the market, as our products and services are used and needed by the government as well as the civilian counterpart. This work will enable us to "prove ourselves" without having to beg for the chance. Only through regular work and growth will we be able to, hopefully, push our way through the wall of ignorance and bigotry. Hopefully, the government, through the 8(a) program, will show me that it is not only okay to drink from that "white" fountain, but I can even help build it.

ECONOMICALLY DISADVANTAGED

I feel that some of the biggest bigots in the state are all with the banking industry. Evidentially these position requirements include "must dislike and distrust blacks". The loan officers, who are supposedly there to assist and advise, are merely there to oppress blacks. In trying to expand our business, which hopefully would bring growth, we encountered more prejudiced and two-faced people than the whole town of Columbus, Georgia. At least in Columbus, in the era of time, we knew the attitude of the white man because he was open with his bigotry. During our course of money-seeking, we contacted nine different banking facilities for possible business loans for expansion. They were: Alaska National Bank of the North; Alaska Pacific Bank; 1st National Bank of Ketchikan; 1st National Bank of Anchorage; Alaska Bank of Commerce; United Bank of Alaska; Alaska Mutual Savings Bank; National Bank of Alaska; and Security National Bank. Also during this period I was also seeking financing outside the state. These bankers were all very encouraging over the phone when the appointment was made. But the minute they met me face to face I could see and feel the immediate change. It was as though, in their mind, they were saying "Oh, brother, there's another jiving black wanting to buy a Cadillac, new clothes and go partying". Evidentially each bank had had their "quota" of minority loans because after a long drawn out period of time we received a nice "thanks, but no thanks" letter in the mail. Even with an SBA guarantee they would not even discuss or try to negotiate our loan. I then applied to the State of Alaska, Small Business Loan Department. I handed in a full packet and the loan officer said he'd review it. After 45 days we received a letter saying our loan was not approved because we were asking for more money than they could loan. When I went to get my packet back, it was brought out that the packet had not even been reviewed, only the first page with the "requested amount". It shocked me that it took this man 45 days to read one page and send a 2 paragraph letter. Perhaps if I had been a white fisherman he may have read the whole packet.

It was only through the efforts and assistance of the Alaska Business Development Center that I was able to secure an EOL loan. The SBA, in itself, discriminates in that the EOL loan also has a limit. Through the money from the EOL loan and my general contracting experience, I was able to fulfill one stage of my goals and that was to have a bigger building to work in. However, there was no money left for additional equipment or desperately needed working capital, so I am still faced with financial hardships as what monies I do make on contracts must be totally reinvested back into the business for equipment a/or materials. Due to financial hardship I must require my customers to pay a down payment on my contracts so I have the necessary money to purchase materials. It is impossible to get a line of credit from a bank or credit with the "big white suppliers". The practice of a down payment is fine with the private sector as people are used to paying a down payment. A general contractor, however, is another story. He is used

to 30 days credit with his suppliers and makes a draw upon completion of his job. This really puts a hardship on us because, as I've said, we need the down payment so we can build the product and do the job. This leads to a "round robin" or circle that we cannot seem to financially break. Big contractors are leery enough dealing with a black firm, but even more so if you have to ask for "up front money". Banks will not loan money to blacks on contracts, suppliers will not give credit to blacks, and contractors do not want to give down payments, so that leaves our small business in the middle going round and round.

Our dealing with credit and banks has really left us with a sour taste. On one contract, for instance, our sub contractor had taken a letter of credit to Security National Bank and received an unsecured loan for $10,000. We were unaware at the time of this loan. About 3 months later, the loan officer at Security National contacted me and wanted our cooperation on collecting this loan. Seems a mistake had been made by the bank in not getting security. The bank wanted to place a hold, through us, on this money due the sub contractor. I informed him that if he had a court judgment for these monies, I would comply. Approximately 2 weeks later, he then approached me saying he would assist me in getting my loan for equipment if I would assist him in securing this money. Feeling that I was being treated fairly for once, I made an appointment to talk this over and see what his deal was. I took in my packet and loan request. He implied that no problem seemingly existed for the equipment loan and he would have an answer shortly. Then he wanted me to sign a loan agreement for this sub contractor's $10,000 loan having Tri-Mec Specialist as the debtor due to the fact we held the contract and the loan would therefore be secured. He guaranteed me he would contact the sub contractor regarding this deal by mail and send us a courtesy copy for our records. I complied but only for the reason that I felt here was the chance to get my much needed equipment and a small amount of working capital. Needless to say, the bank tried to sue us for the $10,000 loan claiming the original note with the sub contractor was non-existant. After much attorney fees and time this note business was finally cleared up. However, no promises regarding equipment loan were remembered by the bank and no money forthcoming. This is but a prime example of how the banks in this area use black firms for their purposes. They do not wish to help me, only use me for their own gain.

The slow economy at this time is of no assistance to our plight. Not being able to secure good contracts means not being able to secure funds of any kind. According to the economists this slow period and no growth will last till 1981 and past. However, it is also indicated that in the government sector there will be an increase in building, procurement and services spending. Since I am qualified to do general contracting work, I have gone into general contracting so I can bid directly for jobs without trying to be a sub to the white contractors. I know I am qualified as a general contractor as I have build a 4-plex unit from scratch and supervised the complete building of my shop, among other things. I am hopeful that the 8(a) program will give us sufficient amount of work and a reliable cash flow so we can overcome the discrimination from the banks and suppliers. Through the guidance and training of the SBA 8(a) program and my own capabilities, I feel the 8(a) contracts and the private contracts I receive will enable me to service my debt to SBA, establish my line of credit with the bank, get my credit with the big suppliers, and get the bonding I need and cannot now get so I can bid more jobs and finally see the growth and development that I have worked so hard for these past 5 years. It would be nice to have a drink from that "white" fountain for once.

Mr. CLARK. Thank you very much. We will have some questions for you.

Mr. Harris, we will now receive your testimony, please.

TESTIMONY OF HANK HARRIS, CITY WIDE VENTURES

Mr. HARRIS. The testimony that I am going to provide involves my company which is a transportation entity here in the city of Anchorage. We operate as a contractor for Husky Oil in their cartage operations in support of the NPR, development and exploration of the National Petroleum Reserve.

I have had communications with the office of Congressman Mitchell, and I believe also my attorney from California has at least talked with you about the matters that we have going in

trying to recover from the harm that was done to our company by the policies, and I think this is the issue.

Most of all, it involves quite a bit of information, but I have here an overview of the situation and will provide the testimony that I am prepared to give, or intend to give, just a cover letter to you ladies and gentlemen, and that will cover what we want to say here today.

Essentially, what happened with Husky, Husky Oil operating under contract No. K-16474 with the Department of Interior, and which was administered and is administered by the U.S. Geological Survey is in their subcontracting policies and procedures where we encountered the problem that put us out of business, is primarily what happened.

The essence of the problem was that in obtaining trucking rights in the city of Anchorage, it is an extreme hard undertaking because of the legal procedures that are involved.

Over a period of March, I believe, April 1976 through January, through September 1978, I operated for Husky as a transshipment entity. I incurred some pretty large financial obligations involved in this type of business, including warehousing, of course, trucks, and as I said earlier, the immense expense of having good counsel to work with.

Thereby, I felt entitled to keep the project which was obtained from Husky under an unsolicited proposal. I submitted a proposal to Husky Oil to provide the services since I did have a trucking permit for contracting. They gave me a contract but did not give me the volume of work. The work was provided to some of the common carriers here in the local city which brings about the question, and of course, that is a contention which is part of our lawsuit, of why have a contract operator if you are going to put the work out to others, especially in the case where probably the contract rates that are provided by the contractor are the cheaper rates. This has become quite an involved lawsuit here with Husky.

I am hopeful that the influence of these hearings will provide the opportunity to recover the financial losses, to continue trucking operations under which we still have our permits which are exclusive for the NPR and help to put my company, at least that operation, back into business, to perform work on the NPR.

My project was taken away from me in two steps. It was done through clever handling of the procurement procedures that we used. In essence, what Husky did, with the approval or the sanction at least of USGS, is to issue a RFP, request for proposal, an informal procurement to the public after they awarded me my contract, so in essence I had to bid on my own project.

While I provided a bid to Husky which 2 years later I discovered that I had the bid that was lowest, Husky and the officials at the USGS, at least locally, are not too accommodating when it comes to procedures that are accepted in this type of business; in other words, to be able to go and see my bid and to determine if I had the low bid at that time.

Husky offered me a deal that was to separate the cartage services from the warehousing, transshipment functioning, and to give me the cartage operation for an additional 2 years on the contract.

I accepted that because I was under the pressure of trying to run a business and trying to continue my operation as a trucker, and also I needed the income from the project which was significant.

In essence, though, they effectively took away the first, that was the first step in taking away part of my contract, so the transshipment work was taken away.

Eight months later Husky then issued an IFB, an invitation for bid, that we are speaking of, whereby I again had to bid on my project.

Now, of course, this type of thing is ridiculous. I had the avenues available to me to file action against Husky for breach of contract probably at certain points along the way, but I was trying to work in a cooperative atmosphere here because as a Government contractor, Husky signed clauses 20 and 46 of that contract which provides under clause 20 is the utilization of minority business enterprises which is a procurement regulation, and in clause 46 they have a requirement to implement an MBE program, subcontracting program, to indicate the records.

I know for a fact that Husky had no black subcontractors on the NPR since the inception, except our company, and that probably the other MBE operation had to be the consortium of the Artic Slope Alaska General which probably provides some question as to credibility of that particular JV as far as I am concerned.

This is one of the contentions that we are involved in, keeping in mind that I am involved in a lawsuit, so possibly some of this I won't be speaking to it specifically.

What we are trying to do here is to project the idea of the noncooperative type of operation that the Government which involves USGS has allowed Husky Oil, the prime contractor, which represents a lot of jobs and taxpayer moneys. In fact, that is what it is, to accomplish this contract work in the State of Alaska, and even a little contractor such as myself which could only have recovered over the period of 3 to 4 years I hope to work for Husky probably something less than $1 million because of the nature of their local cartage requirements.

The best that they could do in my case was to provide me with tactics that show extreme bad faith in behalf of a company of the size of Husky and, of course, on the part of the Government, and their responsibility and involvement in it shows that it was really a poorly run project.

So I guess that is all the information I have on this. I am sure you have some information that I provided your office with, and I will provide some other details of this before your departure.

I thank you.

Mr. CLARK. Mr. Dawkins, let me ask you a few questions, please.

In your testimony you stated that your partner was approved in 1969 for 8(a) certification?

Mr. DAWKINS. Yes, he was.

Mr. CLARK. What firm were you referring to?

Mr. DAWKINS. I think he is set to testify before you, and he will have all the documents that you need. He was one of the first, and I am speaking of Mr. Williams, George Williams, and he was one of the first 8(a) certifications, and he was under a maintenance con-

tract and I don't know the details on it. I wasn't even in Alaska in 1969. He and I became partners later.

I have some of the documents and they are in our office right at this moment. He personally will come with those documents to testify.

Mr. CLARK. To your knowledge he has not received an 8(a) contract?

Mr. DAWKINS. He never received an 8(a) contract. He was working for OMBE the last time he tried to be certified, and because he had a two-man board, he owned the controlling interest. They inferred he did not have control of it and in fact he may have a conflict of interest in that he used his position, his OMBE position, to give him more leverage. I don't think he did that based on how the gentleman was. I think if he had been 8(a) approved, he would have immediately had a letter of resignation from his files.

Mr. CLARK. You also mentioned in your testimony basically two parts, a two-part process that you went through in terms of your 8(a) certification. At what point in time did you go through this process? When did you file your original application?

Mr. DAWKINS. I don't have the documents right off, but I think in 1976 and through 1979, Mr. Williams and I had not been able to be 8(a) approved.

Of course, one of the things that I left out of my testimony that I intended to put in there is that it is ironic that one Federal agency only has the power to grant 8(a) when you do work for or under a Federal contract, SBA.

One of the things that will be in my plea to you, once you are certified by any Federal agency, then the process of becoming an 8(a) contractor should be much smoother because that Federal agency has already—I will use this example: We are EPA-approved. We sell wastewater treatment and are one of the only minority firms that do it here in Alaska. Now we are already approved as a minority. All the things that qualify you to be a minority firm is also what gives you the leverage to become an 8(a) contractor, two peas in a pod.

Now, EPA has approved us. It should be very easy, then, to go on and become 8(a), and I am saying, if the recommendation from this task force is sincere, then some type of language should be added, once you are certified by any Federal agency, the process to then become an 8(a) contractor should be a very easy thing and this is our problem.

We can be 8(a) approved like he did, and I am speaking of Mr. Harris now. He was involved in USGS, he should have no problems with the certification as a minority on his economic status. The same criteria works, and we keep going through this. When we go to SBA, they don't recognize any of these things. They are like little tin gods. I don't have any documents to show from 1976 to 1979 where Mr. Williams was then turned down again. This is a Catch-22. If he was 8(a) certified in 1969 and 1970, what was wrong with the same entity in 1976?

He was never awarded a contract and we are just saying it is a runaround, a Catch-22. We run out of steam sooner or later. We don't want to deal with this SBA.

I doubt over the history of the SBA program in Alaska and this office downtown, how many blacks have truly been served by that? We really should just look into that. On their own track record it shows that what the people who have come here testifying, the men, the businesses that are up here testifying, will never be 8(a) certified because of the backlash. As long as that office with its mentality is there, these gentlemen that are sitting here now, this land, their business, a livelihood, all of us are turning the corner and we don't have too many more chances.

Our young blacks are laughing at us. You keep saying work within the system. We try to do that. We try to work within your regulations, and I am Fairview Council president and young people come to me, and they said, "You are a joke, you know." You are not 8(a) certified. You can't go down to the bank even when we get a contract, and you should seriously look into double bonding.

This is how that works. The prime contractor gets the contractor. He then forces us to bond. He is already bonded on the job. Why make the job more expensive? Because he can get bonding at 1.7. It costs me 3 points to get bonding.

What I am saying, these types of things should be written into the regulations that economically and socially deprived, if there is a bond already, 100-percent payment and performance, then why does the job have to be bonded any more because all materials will be paid. The bond says so. And all labor will be paid, regardless of who does it. And no prime contractor does run a job that does not have a foreman or superintendent out there to see the day-to-day operation goes on. Show me the necessity.

I thank this committee. We will have all of that in, and I will see that you get something from me before I leave here and I will try to answer any more questions and be very short.

We are EPA-approved. If one Federal agency can approve us, why can't others? Automatically we bring in our papers. And you know, they come from a legitimate government agency. We should be able to present that and cut down all the bureaucratic tape, and I know you people from Washington are used to all the bureaucratic—well, that is a part of the system in the world in which you live in, but we are not up here. We are 480,000, very small; but we do have a unique position that we could change a lot of things in Alaska.

You know, the pipeline is coming and I am so afraid that blacks, we are the ones that come out here and fight. But when I look around in this room at my brothers, you look, the people that are out here, the front-runners are the blacks. It is the same old game.

Mr. Colquitt said we will be the last to be hired and the last to get a contract, and we will be the first to go broke economically. The Federal Government, as far as I am concerned, is a party in slavery equivalent to the slaves of the South that were sold on the slave block in North Carolina which is the State I come from. My grandfather, we went to town once a month, and the first stop we made was in the center of town in the slave block, and he would point and say, "That is what one man will do to another." And they do it through law. And you all are lawmakers and I know you individually, don't individually write the laws, but think of us

when you do write these regulations because we are economically enslaved.

The man could not conquer the spirit, the soul, with all the shackles and irons that he put on the blacks in slavery. He could not break down. And we are 50 million strong today and we are getting stronger, and I am saying, if you participate, and when you do participate in writing these regulations, be very careful because it puts economic burdens on us, double bonding, double this, always for us 3 percent when he only has to pay 1.7. These are little things.

I am saying look into, and these are the things that count. It is not that big mountain that I am looking at but the little mole hill that trips me up all the time.

Mr. CLARK. Thank you very much. We look forward to your written testimony.

Mr. Colquitt?

Mr. COLQUITT. Call me anything but late for chow. I don't care.

Mr. CLARK. On page 3 you state that you had submitted several bid proposals.

Do you have an idea how many you have submitted and the costs of those bid proposals to the Air Force base?

Mr. COLQUITT. To the Air Force base, I would say that we have submitted in the past year, since the first of this year, let me put it this way: We have submitted in the neighborhood of 10 or 15.

Mr. CLARK. You have not received a response from any?

Mr. COLQUITT. I received one response for one video-cassette cabinet for housing the tape which we fulfilled. This we fulfilled on time. This has been since this letter, OK, only one.

Mr. CLARK. Now, in your testimony you also stated that you were required by, I believe, SBA to provide a financial statement certified by a CPA. Is this correct?

Mr. COLQUITT. No; not necessarily certified by a CPA. However, we had to have, I had to have a CPA to do my financial statement, OK. So this was supposed to come in stage 2, not in stage 1. However, stage 1 has not departed. We are now furnishing data for our stage 2.

Mr. CLARK. You say stage 1 has not departed. What do you mean specifically?

Mr. COLQUITT. OK, specifically I mean that in stage 1 you are supposed to prove, and I hate to say this, but I find this most unrealistic and unnecessary. However, we have to prove that we are a minority, socially and economically disadvantaged, in which I started off my testimony with.

This is supposed to be approved by the local office up through the chain, I guess, going back up the ladder. Then when this is approved they come forward and say, give me your financial statement and that of your business plan, OK. That is stage No. 2. This is the new procedure. However, I am required to have a portion of stage No. 2, and stage No. 1 has not departed yet. They cannot take other action on this.

While maybe they are receiving requirements for the financial statement, et cetera, et cetera, at this stage of the game now, but that is not the way it is explained. Before it was 14 points. This new procedure is proving disadvantaged, economically and socially,

and No. 2, stage No. 2 was that of your financial and business work plan. It is supposed to have been just that simple, but I haven't even gotten off first base yet with that of the social and economic disadvantaged.

I am furnishing data, and since I have my paperwork in to my CPA, I cannot furnish them with a financial statement until such time that I get all my documents, get my CPA to give me the stuff back.

Mr. CLARK. Have you received any assistance from SBA in the development of this whole application process?

Mr. COLQUITT. Very good question. Yes; in the first stage, the first application that I made, and this was back in December 1978, OK. I was requested to let SBA help me fill out my application for 8(a) rather than going to a DBC.

I felt there is nothing wrong with this. These are the experts and they should know what is required and move my thing out readily. However, about 4 months later I knew I got myself into trouble.

Well, in February I sent a letter to find out which was in essence 2 months later. I sent application to Mr. Clement and this is documented in my statement. On December 17 I made application for the 8(a) program which I feel will be beneficial to our growth and prosperity and placing us in a more sound position to assist other minority and small businesses through these government contracts.

However, I am still at a loss or lack of understanding, with a clear reason, why any application still remains in the district office level after this period of time preventing consideration by the regional office and your office for approval. We have complied with all of the requests, including the 14 specific points.

Now, at that time it was 14 points that we had to prove that we were a minority. Mine was declined by SBA, and SBA filled it out, such as I received a letter, and which is also included, and "This letter is to make you aware of the action taken by the Small Business Administration. The 8(a) Review Board met on March 13, 1979"—which my letter had gone to Mr. Clement.

Mr. CLARK. This letter is from whom?

Mr. COLQUITT. The local Small Business Administration dated March 21, 1979. All right, and again I apologize for not having it down, but it was from this local Small Business Administration signed by Mr. Yancey. It stipulates,

The recommendation of the Board was to decline your application. This decision was made because of a number of factors. The board felt——

Here is what blew me, blew my mind, it really did.

The board felt that you lacked the necessary organization and experience in general contracting and operational control to develop to the level that you project.

The level that we projected, it was a vast——

Mr. CLARK. Before you move to that next point, let me stick with that one moment. The letter you are referring to is a letter that was sent to you by the local SBA office informing you that your application had in fact been denied.

Did they inform you that that application was to receive final review by the central office in Washington?

Mr. COLQUITT. At that time, I wasn't informed that it was to receive final review, but I understood this was the recommendation that he was sending forward to Washington.

Mr. CLARK. The letter that you read, and I also read it in your package, did not indicate that this was a recommendation.

Mr. COLQUITT. That is right.

Mr. CLARK. It stated your application was being denied. Even with that, you received a denial note from Mr. Clement who has the statutory authority to approve or disapprove the application, and in that letter of rejection by Mr. Clement he states the reasons why your application is not being accepted.

Now, these reasons differ substantially from the letter from the local district office?

Mr. COLQUITT. Very true.

As a matter of fact, on the local level, their reason for declining my application at this point, and this was the first one, I am going through a second process.

The Board felt that you lacked the necessary organization and experience in general contracting and operational control to develop to the level that you project.

Now, the first year projection, $170,000 in general contracting, I mean that is such an atrocious figure, it is unbelievable. The second year was $320,000, and the third year was $320,000. I mean, this is gross. I really ask for one heck of a lot, OK.

The board was also, the board also felt that you did not have the access to the cash or credit from banks, and I mean, you read in another part of my testimony, I am in accord with them. The banks do not on a full basis cooperate with the very small businessmen and especially that of the black. It is very difficult. I hate to say this, but it is fact, and I do have the factual data to prove what I am saying.

Now, mind you, they said that in essence, organization and experience in general contracting. I have trained, mind you, six men that I feel are competent. I received a $100,000 loan from SBA. Out of that loan I paid my management, I put up a building that has a value of $300,000, paid off closing costs, and what else, you know, everything else that goes with the closing of the deal.

Now, if that is poor management, I challenge any contractor, any manager in SBA or any manager otherwise to do equally as well. A concrete block structure, this was true management, was accomplished. I trained six other men building a complete fourplex unit, custom unit, mind you.

As far as cabinetry work, we put out competitively a very solid cabinet, and I would invite anyone here—there is a demonstration of a house that Tri-Mec's Specialist designed for Alaskans to be used in Alaska by Alaskans, and this demonstration goes on tomorrow and it has been rated that it more than surpassed the MPS, so I question these people that question my capability of performing as a general contractor.

HUD recognized the structure as a superior structure and so do many architect and consulting firms. I question their questioning my capability.

Mr. CLARK. Now, you are applying for the second time for 8(a) certification?

Mr. COLQUITT. Affirmative.

Mr. CLARK. Thank you.

Mr. Harris, I understand the sensitive nature of your arrangement in terms of your lawsuit. Have you at any point in time contacted USGS regarding the Husky Oil problem in terms of their selection of you for minority business participation? The project in the subsequent actions that were taken by Husky?

Mr. HARRIS. During September 1978, at the time that we lost the project completely, I contacted Charlotte Spann with the Department of Interior. She indicated she would ask USGS to perform an investigation of the matters involving Husky and us with this particular item. Of course, we never got any activity on that until after we had filed the legal action, and they informed they would not be in a position to get involved in the problem. So that is where that is, the administrative procedure involved in trying to determine if Husky did not comply with the FPS which it is highly questionable.

You can take a IBF for specific services such as cartage and the end result, to issue a contract that comes out as equipment rental, which is what happened. This is very arbitrary. There were at least 20 respondents to that bid, of which I contend that our company, City Wide Ventures, was the sole source of supply because we have the only certificate issued by the State of Alaska to perform cartage services in support of that contract. It makes it hard for me to protect the one main asset of my business which is my right to work here in the State which equates to the same thing.

I had no way to protect my asset. Thereby, I lost my certificate because if I am not performing the work, I cannot protest the award of my project to others. So the implications involved there are what I am trying to get worked out with the Department of Interior. As a matter of fact, the Alaska Transportation Commission communicated with me last week about the certificate, and it is almost imminent that it will be dissolved because it is not being performed.

In essence, they eliminated the opportunity of cartage by calling it something else, and in effect to actually lease equipment from this other company which is one of ours. I suppose you call it one of the oldest companies around here, Lynden Transport, so I have communicated with the USGS on two occasions.

Mr. CLARK. You did receive a contract from Husky Oil prior to the issuing of the IFB?

Mr. HARRIS. Yes; I had a contract.

What we had was a concept of transshipment which started out as an idea of mine. I didn't call it transshipment. I asked them if they would accept a contract for an unsolicited proposal to provide trucking, consolidation, and shipping services, and it was signed in good faith by both of us in April 1976.

Mr. CLARK. Was that for a specific item or specific services to be rendered or just a contract for the signing of the concept?

Mr. HARRIS. No; it was the contract for the provision of the services, providing rates and all the other things, all the other things that a contract document does.

Then at that time the idea that the transshipment would probably work real well, we are about a year into it and we have had

time to actually test it, that perhaps this is something that should go out on RFP. So that is how that situation came about.

Mr. CLARK. Who made that decision?

Mr. HARRIS. Husky Oil, and they issued this RFP to several operators in town. Ultimately, they considered the bid of our company along with the bids of two other operators here, of which the award was made subsequently to Lynden as the proposals that they would like to actually entertain, so at least we were considered, probably because we were already contracted to do those services.

Mr. CLARK. Husky received the large prime contract for work to be done back in 1977, was it?

Mr. HARRIS. 1976 that they had it with the Department of Navy, and then with the Department of Interior, it was switched over in 1977.

Mr. CLARK. The work was to be completed by when?

Mr. HARRIS. By approximately 1980. In all of the RFP's that are involved in this particular project, they point out the fact that any people who respond to this could probably expect to be involved in the project through 1980. Thereby, the size of the project is what would determine if it is something I would want to bother with or structure my outreach for my company or do other contract work.

Thereby, I made the decision for the period 1976 through 1980 I would like to work for Husky and do one good job and at the time to have the track record that would be available for jobs such as the gasoline coming up because we have a situation where Anchorage is a hub-type situation, and it is always going to be in our construction projects requirement for people who are involved in shipping and those types of services.

Mr. CLARK. OK, now, Public Law 95-507 was not enacted until 1978. To your knowledge, has Husky received an extension or any type of contract modifications regarding the contract that they received in 1976?

Mr. HARRIS. I don't know that information because I am not involved with Husky as their friends any more. What I do know is that Husky had the exceptional requirements of compliance of 11-625, I believe, in the case of our contracts that we had before the enactment of Public Law 95-507.

We contend that even though Husky does not have or did not, and, of course, USGS, an actual black and white, the law itself does not say actually there are certain things that we have involved, contentions that we make in our lawsuit, but that Husky has the requirement of the intent of that particular law because it appears to me we are getting on toward something that is going to have to be interpreted.

What is the spirit and intent of the public law that Husky had to comply with? There was a reason for the signing of clause 20 and clause 46, or otherwise there wouldn't have been a contract under K-16474.

Mr. MITCHELL. We are about to take a recess for lunch. Just before so doing, I want to indicate that as chairman, I am really grossly disturbed about some of the reports and comments that I received this morning.

First of all, for any human being, any man, any woman, to testify or make a statement before a congressional committee that

any person here to testify will not get anything because of the backlash of the agencies, that is a terrible climate in which to operate. That is an incredible climate. That smacks of the days of Joe McCarthy when he was running around the Senate browbeating people.

All I can tell you is that, and I think I can speak for your congressional delegation from Alaska, that if any person in any agency at any time under any circumstances attempts to use that kind of language to you to suggest, because you appeared before this committee, you will be "white balled," you let me know. I will simply, whatever it takes to break up that kind of harassment, whatever it takes, I am prepared to do it, and I can speak for your delegation.

I also want to know, and maybe I can get this from you privately, Mr. Colquitt, I want names. I want the name of some idiot who would have the temerity to say, you are being denied an 8(a) because you are working out of a lean-to. That person isn't fit to serve in government. I want the name of the person who says, who tells you they have changed the regulations again, and I don't even know myself what they are. If you don't know, then get out. You shouldn't be serving in government.

I get angry about this, but I think minority businesses have been kicked around, and I am making that as a flat, unequivocal statement, and they have been kicked around by the agencies, and I think it is wrong and time to break it up.

When we recess, will you let me have the name of this clear-thinking bureaucrat who tells you you operate out of a lean-to? That is derogatory.

Mr. COLQUITT. Thank you, sir, for recognizing the word "derogatory." It is exactly that, and so are a lot of the other things that you know——

Mr. MITCHELL. You see, that is why I want names. It is not the broad practices that worry me too much. It is when an individual with that kind of mentality is in a position to impact on policies or practices, that is as much of a danger as the practice itself.

I will have calmed down by the time we get back. It is 12:20. Let's break until quarter of 2, OK, break for lunch.

We will stand in recess until quarter of 2.

[Whereupon, at 12:20 p.m. the committee recessed, to reconvene at 1:45 p.m. the same day.]

AFTERNOON SESSION

Mr. MITCHELL. We announced that we would resume the hearings at 1:45, and in the true tradition of minority businesses, always being on time and efficiently starting as announced.

The Chair would like to announce that I would like to submit for the record correspondence from Wilsyk, Inc., Mr. Willie J. Sykes the vice president, with reference to the problems that they have been having with Husky Oil, and also the problems of bonding. That correspondence will be submitted for the record.

[Correspondence referred to above follows:]

WILSKY, INC.,
Anchorage, Alaska, July 14, 1980.

PARREN J. MITCHELL,
Chairman, Committee on Small Business,
Subcommittee Minority Enterprise, Task Force on Minority Enterprise.

DEAR SIR: As you might well imagine, the Small Business Administration is Alaska's corner stone for Minority Small Businessmen. One of the major problems facing Minority Contractors is bonding. It is an issue that has not received the attention it should and it is one that has caused much frustration to Minority Contractors. Once a contractor acquires 8A certification by SBA the contracting firm can only get bonding for the 8A programs that guarantees work. This is all well and good to a new firm but for an established firm trying to competetively bid on larger Contracts it sets obstacles and limitations.

Is there any action that can be taken to remedy this situation with the Surety Bonding Companies? Possibly some action at the Senate level would make surety companies more respondent to small business. The requirements and guidelines established by surety companies to qualify for bonding is extremely stiff for newly developed minority contractors trying to make it.

Once a firm is certified by SBA under the 8A program, its problems are not solved. Region Ten, which Alaska is included, has not had money for distribution through loans or Business Development Expense (BDE) for the past three years. It seems that a large share of the available money finds its way to the east coast, east of the Mississippi and very little west of the Mississippi. (See attached example) When there is no monies coming into this area for loans or through BDE believe me it surely causes grief to the Minority Business person.

I feel that the frustrations of the Minority Contractors should not be centered entirely on SBA. The organizations and companies that need addressing are Husky Oil, Sohio Oil and Alyeska Pipeline Company. These firms have continued to refuse Minority Contracting a chance to Bid on large contracts. It is their unwritten law that you must be able to operate for 90 days before receiving payments. Therefore they aren't able to submit Bids. The owners of Wilsyk Inc. submitted a bid to Husky Oil with SBA's assistance.

We were not called, we received no correspondence about the results of our bids, nor have we received any other on going requirements package from Husky Oil. In short, its frustrating to talk to the Procurement Agency when you know they are holding back the truth from you.

However, I feel that SBA here in Anchorage has done an excellent job in aiding potential 8A applicants and by going out into the Community and getting work for 8A Contractors.

Respectfully,

WILLIE J. SYKES,
Vice President.

Mr. MITCHELL. The second piece I would like to submit for the record—this was left here in the hearing room from Big Boy Janitorial Service—indicating that they want to express their gratitude for the enormous amount of help that the Small Business Administration has given to them, and this, too, will be submitted for the record.

[Letter referred to follows:]

BIG BOY JANITORIAL SERVICE,
Anchorage, Alaska.

Representative PARREN J. MITCHELL,
Task Force on Minority Enterprise,
Federal Building, Anchorage, Alaska.

DEAR REPRESENTATIVE MITCHELL: I would like to take this opportunity to tell you about the associations that I have had with the Small Business Administration.

The SBA has been very helpful in the development of my firm. I have been involved in the 8(a) program for about one year. During that time my business has been turned around and I am successfully performing a number of custodial contracts with the federal government.

The SBA has also helped me with financing through the Direct Loan program. Without the assistance of the agency I would not have been able to develop the way I have. I owe much of my success to the assistance from SBA.

If you have further questions please feel free to contact me.

Sincerely,

OSCAR GUARDERAS.

Mr. MITCHELL. I would like to indicate that I think this morning was very, very beneficial. It has given me a whole lot to work with, and it has given me and the staff an enormous amount of follow-through to do, but that is what we get paid for, and I am most appreciative of the testimony that we have had up to this point.

Is Mr. Tommie Cleveland here?

[No response.]

Mr. MITCHELL. Mr. Cleveland is not here yet.

Let me also say, tomorrow the agencies will be testifying. The various Federal agencies will be testifying before us all day, and you are invited to come back to this room and sit and hear the testimony submitted by the various agencies. We would be delighted if you could do that.

Mr. Charles Eaddy.

Mr. EADDY. Yes, sir.

Mr. MITCHELL. D. F. Eaddy & Associates.

Mr. Jesse Griffith. Mr. Griffith here?

[No response.]

Mr. MITCHELL. Mr. John Bellard?

[No response.]

Mr. MITCHELL. Mr. Willie Ratcliff?

Is Mr. Ed Schenderline from Skyline Electric?

Mr. Robert Taylor from Cypree Construction?

You know the format we have been using, and we are delighted that you would take time from your business to give testimony.

If indeed you have written testimony, without objection, the entire testimony will be submitted for the official record and will be printed in the record, and then you are free to exerpt from your testimony and give the major highlights in your testimony.

Do all three of you have copies of written testimony?

PANEL CONSISTING OF: CHARLES EADDY, D. F. EADDY & ASSOCIATES, INC.; ROBERT TAYLOR, CYPREE CONSTRUCTION; AND WILLIE RATCLIFF, SAFEWAY FLOOR CO., INC.

Mr. EADDY. I have a copy being typed. I have notes to refer to presently.

Mr. MITCHELL. That will be fine. Get to me before we leave.

Mr. TAYLOR. I don't have a copy of testimony.

Mr. MITCHELL. I would appreciate it if whatever you have to say to us, you could get it reduced to writing and mail it in to me, but if you can get it into me before we leave, it would be appreciated. Make sure you identify yourself by name, firm and title.

TESTIMONY OF WILLIE RATCLIFF, PRESIDENT, SAFEWAY FLOOR CO., INC.

Mr. RATCLIFF. My name is Willie Ratcliff. I am president and owner of Safeway Floor Co. It is not active at this time. I go back a long ways.

First, I would like to thank Representative Parren Mitchell and his staff for coming up and listening to our problems, and if there is any way that they can help us to combat the situation up here in Alaska—and which I feel is unique—that we find ourselves in.

I came up here in 1951 as a young strapping kid looking for a new area where they probably didn't have as much competition as I was finding back in San Francisco, and I was in the construction industry back there, so quite naturally, I came up looking for work. Ever since, I run into trials and tribulations from cities, State, Federal agencies, and even the Army, which I spent a couple of years in.

I will get right down to more specifics. I would like to get started by just reading a little into the record, and then I will go straight into some of the Federal agencies, some of the specifics.

The magnificence of birth is always accompanied by suffering. We know the suffering that attends the birth of a child and the suffering that has attended the birth of each new African nation.

Right now, here, today, black enterprise is trying to be born. Black ownership of our own businesses, our own jobs, the means to productivity, prosperity, and pride for our people is emerging into a hostile world that is armed to the teeth against us, and we are suffering.

In Alaska, this resource rich, underdeveloped country that has been called the South Africa of North America, the most exploitive powers on Earth are reacting to the challenge of our emerging power; and they are trying to crush us all beneath the heel of their boots. But now that your task force has traveled thousands of miles to listen to us and to bring us your help and encouragement, I know that black enterprise will be born and grow strong in Alaska and that its magnificent contributions to our people's progress will be worth all the pain.

I first got involved with SBA during the flood of 1967 in Fairbanks when it was declared a disaster area, and 3-percent money was made available to people that had some losses. And quite naturally, I was right in the flood plain, so I had several thousand dollars worth of damages. I really had a hard time getting a $5,000 loan to repair the flood damages that had happened to my house. Several blacks were unable to get loans that were anywhere comparable to whites. We get $5,000 and they were able to, even without a fight, they were able to put up a hotel out of 3-percent money, apartment complexes, nice houses.

Mr. MITCHELL. Pull your mike a little closer to you. They might have some problem hearing you in the back.

Mr. RATCLIFF. Anyway, we asked for an investigation, and we did get some people up, and there was some help coming. But rather than anything else, it made SBA, as soon as they went back, more determined to retaliate against those who asked for them to come up in the first place. Of course, by me being somewhat the leader in the minority business field, I was public enemy No. 1.

Anyway, let me get my dates straight. In 1970, I was granted an equal opportunity loan of $25,000 which took us 60 to 90 days to even get. At that time they wanted to tie up not only two lots that the corporation owned, they also wanted to tie up all the receivables. At that time, SBA couldn't help us with any bond, so I refused to let them tie up any receivables, but I did tie up two lots.

We were getting quite a bit of work with no bonds. SBA was to help us get bonds. We never did get any help out of them at all. Of course, the $25,000 was nothing like the type money that we

needed. It really tied our property up, and put us in a position where we had to be trying to pay that back and had no money to do it in the first place.

No money you could get from banks and when I first went in business, I asked the banks about financing a pickup truck. They said no, but they would finance a car, but no pickup truck. That was a means of making a living, competition against other whites that were in the same business that we were in. We had to go out to Pittsburg, Calif., to even finance two pickups to get started.

My partner was Robert Taylor. We were in the business at that time. We kept trying to get money from the banks. We couldn't get money anywhere, and we had a chance to get a contract out at Eielson Air Force Base a subcontract. It was an Air Force contract at Eielson in a housing area, and so we went to SBA for money and they said, "Well, why don't you go talk with the bank, and we will see if we can set you up with a line of credit." They came through with a $30,000 line of credit and we needed way more.

We had to project everything that we had on that $30,000. We needed more at the time. So anyway, we had a bad year, we lost some $46,000 that year, and SBA granted the bank an additional line of credit running all the way up to $100,000 without our knowledge whatsoever.

Later on, SBA also paid off that line of credit where I had signed for only $30,000.

Mr. MITCHELL. They paid off $100,000?

Mr. RATCLIFF. No; some of the money had been paid back by me, but they did run the line of credit up to $100,000 without my even being told about it at all.

At the time, we found out that we were not going to make enough money to be able to pay the complete line of credit back which we had borrowed, I got everything together and went back to SBA and the bank and asked them for an additional $60,000 which would take care of the bank and take care of them and would give us a little operating capital; and with the pipeline coming up, we would be able to work ourselves out of it. SBA flat turned us down which, we have letters—I have a letter in the written testimony that backs it up, the letter from SBA stating that they couldn't advance us any further funds.

As usual, though, black people have been through many hardships—and someway they just keep on going, so we just kept getting little small contracts and going on, but no help whatsoever from SBA.

Our partnership broke up between me and Robert Taylor.

As the pipeline started to emerge, I started going to hearings and pushing for minority participation, and finally wound up with a sizable contract, after we had got Alaska Associates together. We formed Alaska Associates in 1974, and this is the time that they were getting the road, building the camps for the pipeline.

Mr. MITCHELL. What was the amount of the contract you got with the Alyeska Co.?

Mr. RATCLIFF. With Alaska Associates, we had two contracts down in Valdez that we run with an all black staff that were approximately $10 million.

Mr. MITCHELL. The total, the two of them totaled $10 million?

Mr. RATCLIFF. We also had a joint venture up at Detrich Camp to build a lot of pipe weights up there, better than a million dollars. We also constructed Sheep Creek Camp, some $850,000 and my own company had a $2 million contract building some concrete pipe weights in section 3.

Mr. MITCHELL. That is with Alyeska?

Mr. RATCLIFF. Yes; and also coating all the pipes that cross swamp areas, rivers, and streams.

Safeway Floor and Cypree Construction, which was Robert Taylor's company that he had formed, we had the maintenance contract on Alyeska staff family housing down in Valdez. That was $800,000 and we were running all of this simultaneously, but we could see that the pipeline was going to end and not be there anymore, and we still were not going to be able to get work out of the private sector, the State, and out of the Federal agencies.

At that time, Doug Sands was our general manager of Alaska Associates, and I had him trying to work on trying to start getting contracts from Federal agencies, and also to get 8(a) certified for Alaska Associates, but also for all the members, each of the 13 members was a black contractor in his own right, of Alaska Associates to help them with their paperwork or whatever they needed, to act as a liaison with Commissioner Brock, who was the insurance commissioner in Juneau, to see what we were going to be able to provide out anywhere.

We started shooting in paperwork back in 1976, because we knew that the pipeline was going to curve down. SBA turned me down, and their reason was I needed some white top level management. In other words, all the work that I coordinated, put together, bid, and carried out with one of the best efficiency ratings on the pipeline, didn't even count.

Mr. MITCHELL. In 1976 you were turned down for 8(a) certification?

Mr. RATCLIFF. Yes; and Alaska Associates was turned down, and I left Alaska Associates the last part of 1976; but I am sure other contractors were turned down. Maybe some did get 8(a) later.

What they actually followed was impossible. It would seem to be a delaying tactic, and if you raised much sand about it, you got a retaliation, and it went right back to your bank and any general contractor who you were trying to sub from, and you know, you were added to the black list if you tried to exercise your rights for them to carry out the law as it is written. The name of it was retaliation. Anybody that tried to push too hard with SBA would find themselves locked out everywhere.

Anyway, Alyeska started turning down on the pipeline in the last part of 1976 and going into 1977. It was time to renew the contracts of the various minorities, including mine, Safeway Floor, and Cypree, a contract down at Valdez, and two contracts that we had with Alyeska to be renewed each year up to 3 years, so we started down in 1975 and in 1976 they were to cut us off.

The simple reason was Alyeska had no intention of dealing with blacks at all on the pipeline. Their intentions were to maybe deal with a few native corporations, because they were more powerful in the pipeline and the pipeline did have to cross some native lands, so they knew they would have to deal with them.

The regulation governing the pipeline was—the pipeline was started way before they—the regulations—were out. They had proposed regulations, but not law until the pipeline was well on its way and all the contracts had been signed. There was no room left for blacks to even get in, so after we put a lot of pressure on them, they had to go back to Fluor down in Valdez, and go to different other execution contractors and say, "OK, we want you to cut off a piece of this and give it to minorities."

"Well, you know, I signed a contract to get a percentage on this whole contract. I will cut off a piece, but I am going to still get my fee on it."

They, Alyeska, were actually paying a double fee both to Fluor and the minority contractor down in Valdez, and that is what blew up the next year in 1976, when we started hearing the rumors that our contract was not going to be renewed and we knew that we were doing a much better job than Fluor.

We had as high as 215 teamsters on one contract and we had as high as 100—no, about 85—on another one, and we ran all of that, including cost coding, payroll, logistics, and the whole works, with five people, five office people.

Even Fluor will admit that we had the best efficiency rating. That didn't make any difference on our contract. Anyway, we wrote the Congressional Black Caucus, and we also had Doug to fly into Washington and talk to the Interior Department, and we practically forced Alyeska to give Alaska Associates those contracts back for the year of 1976. Of course, that didn't make me popular at all, so anyway, they turned around and they killed my contract, the Cypree/Safeway maintenance contract. No reason at all, best efficiency rating that they had ever had in running that maintenance contract.

We had an average of, we were on 24-hour call. We had an average of responding to a breakdown of a boiler or something that would go out, that would freeze up—and they get a lot of wind down there—we had an average of receiving the call, going out and fixing whatever it was—an average of 20 minutes, and they have never had that kind of rating. Our hourly rates were $10 to $15 an hour less than they were paying before we entered the contract. But anyway, they canceled the contract.

Mr. MITCHELL. They canceled Safeway but left Alaska Associates intact?

Mr. RATCLIFF. It killed the leader and not only that, they informed the Alaska Associates, if they didn't get rid of one Willie Ratcliff, that they were going to cancel everything they had and not get any more.

Mr. MITCHELL. Who informed them of that?

Mr. RATCLIFF. Alyeska Pipeline Service Co. held a meeting with part of Alaska Associates' board. One of the guys named Don Bruce that was working for Alyeska.

Mr. MITCHELL. OK.

Mr. RATCLIFF. They divided and conquered. They got rid of Willie Ratcliff and Doug Sands and the whole crew. Their contract still didn't last very long. As a matter of fact, they—Alaska Associates—got pretty shoddy treatment after that.

So in 1976, I moved down to Anchorage, because Fairbanks, it was too hot there for me, and soon after that, the local public works laws were coming out. I am sure you remember that. So, of course, the AGC had a suit filed up in Fairbanks against it. We got to looking at all the city work besides what were coming down in local public works, the comments about the whole states, and it wasn't too much anyway.

I don't remember what the figures were but we got to looking at the municipality rates and we would find out that in municipality funded contracts the minorities had picked up somewhere around one-tenth of a percent.

Mr. MITCHELL. Municipal construction?

Mr. RATCLIFF. Yes; I know the municipalities do get all kinds of Federal help, including revenue sharing, and even the State, public works, all those types of things, minorities were not getting any of it. So we tried to get a meeting with the mayor. We don't even get the courtesy of an answer. We get one of the assemblymen that runs in the black area, and we got him to listen a little bit, not that he wanted to.

We finally talked him into introducing an ordinance that would stipulate a 15-percent set-aside on each contract for minorities, patterned after the Public Works Act. Of course, that was not very popular for me at all, not as far as the treatment I was getting from the banks and retaliation by SBA, and you might note, there is a clipping from the Times and also one from the Daily News, a smear campaign by SBA, trying to divide the community and smear me—that the Alaska minority business task force leader is in default, quoted by SBA's attorney, Howard Reed.

As a matter of fact, the same night that that paper was coming out, I had been trying to get a loan to put up an apartment complex down in Valdez with every bank in the State, and lending institutions outside, and I finally got Alaska USA Federal Credit Union to grant a loan in the amount of $580,000, but I had asked for $701,000 because $580,000, it is only 58 percent of appraised or replacement value, whatever the bank uses as a criteria.

I had no choice but to take the money, because the city of Valdez was putting pressure on me to pay the property off. They were already in court to take the property away from me. I had been 2 years trying to get a loan. I had one bank here (NBA) told me that they would loan me the money back in 1976, before I got into it with Alyeska. They had promised me the money, and I also got a letter from Alyeska stating they would take 15 of the units, because they were going to start their operation phase, start moving in to operate the pipeline, and they would need additional units in Valdez, and they needed them by October 1. They would rent 15 of them, which would be good to induce any financial institution to invest in the project.

After Alyeska had the banks to not loan me any money at that time that Alyeska moved against me, I had receivables of better than $100,000 from Alyeska, and there wasn't a bank in this State that would loan me a dime. And I had a payroll to meet in Valdez every week, and that is the kind of pressure they put on me.

Mr. MITCHELL. Thank you.

Mr. RATCLIFF. That same bank I had to call over the telephone to get $60,000 from, but once I moved against Alyeska to make sure that we kept those contracts, and also constantly reminding them that they could even improve the position that they had by giving more minority contracts up here, and they just felt it was time to shut me up.

Mr. MITCHELL. All right. I know you are wrapping up your testimony. I want to ask you one question, and I have some more to ask you.

You got into a battle which suggested that municipal funds be deposited in banks that demonstrated a record of equal opportunity lending, is that correct?

Mr. RATCLIFF. Correct.

Mr. MITCHELL. Subsequent to that, you had a conversation with one of the bankers in an attempt to get some money from them for your enterprise, is that correct?

Mr. RATCLIFF. That is correct.

Mr. MITCHELL. During the course of that conversation, the banker is alleged to have said, "Surely you didn't think you could attack the banks like that and get away without being punished." Is that correct?

Mr. RATCLIFF. That is correct.

Mr. MITCHELL. Who said that?

Mr. RATCLIFF. Tom Pargeter.

Mr. MITCHELL. Spell that.

[No response.]

Mr. MITCHELL. Well, what bank is it?

Mr. RATCLIFF. I understand he is senior vice president of NBA.

Mr. MITCHELL. This was directed to you?

Mr. RATCLIFF. Said to my assistant.

Mr. MITCHELL. Directed to your assistant?

Mr. RATCLIFF. Yes.

Mr. MITCHELL. What was your assistant's name?

Mr. RATCLIFF. Mary Afcan.

Mr. MITCHELL. The statement was you didn't think you could attack the banks like that and get away without being punished?

Mr. RATCLIFF. Yes.

Mr. MITCHELL. Am I safe in concluding then that the turndown of your loan was not based on the merit of your case, but on the action that you had taken with regard to the lending practices of banks in general?

Mr. RATCLIFF. That is correct.

Mr. MITCHELL. Thank you very much. I will have some more questions for you a little bit later.

[Mr. Ratcliff's prepared statement and attachments follow:]

PREPARED STATEMENT OF WILLIE RATCLIFF, PRESIDENT, SAFEWAY FLOOR CO., INC., VALDEZ, ALASKA

The magnificence of birth is always accompanied by suffering. We know the suffering that attends the birth of a child and the suffering that has attended the birth of each new African nation.

Right now, here, today, black enterprise is trying to be born. Black ownership of our own businesses, our own jobs, the means to productivity, prosperity, and pride for our people is emerging into a hostile world that is armed to the teeth against us; and we are suffering.

In Alaska, this resource-rich underdeveloped country that has been called the South Africa of North America, the most exploitive powers on earth are reacting to the challenge of our emerging power; and they are trying to crush us all beneath the heel of their boots. But now that your Task Force has traveled thousands of miles to listen to us and to bring us your help and encouragement, I know that black enterprise will be born and grow strong in Alaska and that its magnificent contributions to our people's progress will be worth all the pain.

Like most blacks I know, I've never been afraid of competition. Whether on my own in Houston hunting my first construction job at the age of 13 or negotiating contracts for my first construction company 13 years ago, I've been willing and able to do the job better for less than bigger, stronger white competitors. My complaint, echoed by black business owners throughout the country, is that collusion between private lenders and the federal government, primarily SBA, has cut off my access to credit and capital and stripped me of all the property that a lifetime of hard work had bought and built, and that these attempts at financial assassination have become more blatant and intense in proportion to my successes, not my failures, as a contractor.

When I got my first SBA loan in 1967, I'd lived in Alaska for 16 years supporting my family as a construction worker and trying to accumulate or borrow enough money to start my own company. Although I'd been superintending large projects for large contractors for years, local banks refused me the money to go into business or even to finance a pickup truck for the purpose, offering instead to finance a luxury car, a more appropriate vehicle for a black. It was the Fairbanks flood of 1967 and the angry protests of Fairbanks blacks when SBA disaster loans to whites were generous enough to build elegant new homes, apartment buildings, and hotels that got me and other blacks token $5,000 loans to repair our flooded homes.

That $5,000 disaster loan was wholly responsible for launching Safeway Floor Company, Inc., incorporated in February, 1968. Denied by racist bonding companies the opportunity to bid sizable government contracts the same way racist real estate brokers have traditionally kept our people out of white neighborhoods, I applied to SBA in December of 1969 for a $25,000 equal opportunity loan for "working capital and bonding purposes" and offered two downtown lots as collateral. SBA rankled when I refused them my accounts receivable as well—I was already a popular subcontractor on government projects despite the bonding barrier and insisted on retaining some collateral for future loans; but in February, 1970, the loan was granted. It will not surprise you to hear that Safeway Floor never did obtain a bond nor did SBA ever deliver any of the technical assistance it dangles alluringly before minority businesses.

For a young, small, black business, Safeway Floor kept busy in 1972, grossing nearly $200,000. Almost eagerly, then, the following spring, SBA granted a $30,000 line of credit in consideration for all the company's "contract rights and proceeds" for the upcoming construction season. Safeway Floor crews were working all over town, with records showing a minority hire rate over 80 percent. One contract after another was successfully completed and advances by the participating bank, Alaska National, repaid. On June 22, 1973, only 43 days after the loan was approved, a bank officer wrote to SBA, without my knowledge or consent, to request an increase in the line of credit to $100,000; and the request was granted. Total gross sales at year end were a record $358,000; but we had spread ourselves too thin for maximum efficiency, and the year end statement also showed a $46,000 operating loss and outstanding indebtedness on the line of credit of over $50,000.

That winter, broke but hopeful, I talked to the other black contractors in Fairbanks about forming an association to strengthen our performance power with a view toward pipeline construction contracts. I talked to SBA, too, applying for a $60,000 loan to pay off Alaska National and other creditors. While SBA refused me the loan, 13 black contractors did agree to join forces; and in April, 1974, Alaska Associates, Inc., was born.

Heading both Alaska Associates and Safeway Floor, I was eventually responsible for $15 million in pipeline contracts and 550 pipeline jobs, most of them held by minorities. SBA, however, apparently shared none of the faith my fellow black contractors had in my potential and continued to deny my loan requests but nevertheless agreed in October, 1974, to repurchase Alaska National's indebtedness.

Furious to find themselves holding a $50,000 note completely unsecured and their habit of collusion with local banks exposed in writing (see enclosure), SBA began to retaliate. When a partner in Safeway Floor decided to leave the company, SBA refused to release him from liability for the line of credit loan even though I offered to acknowledge the entire debt and increase my monthly payments from $350 to $2,000 in exchange for his release (see enclosures). It took a long and expensive lawsuit to convince SBA finally to release him.

From 1975 to the present, despite additional collateral and many thousands of dollars in payments, notices of default and threats of court action have arrived from SBA every few months (see enclosures). In November, 1977, when an Anchorage ordinance I wrote and championed that would have allocated 15 percent of the value of all municipal contracts to minority contractors and 15 percent of all contract-generated jobs to minority workers appeared close to passage, SBA, the so-called friend of minority business, hit the papers with a smear campaign designed to attack the integrity of the entire movement because its leader's loan payments were delinquent (see enclosures). And finally, on June 6, 1979, just before completion of my apartment building in Valdez would have enabled me to resume substantial loan payments, SBA foreclosed and sold the two lots in Fairbanks that had collateralized my old equal opportunity loan. A large payment I'd made that would have saved those lots had been applied by SBA, without my knowledge, to the less secured line of credit loan instead (see enclosures).

In 1976, pipeline construction was nearing an end; and I tried valiantly to gain 8(a) certification for both Alaska Associates and Safeway Floor. Pounds of carefully prepared paperwork were submitted but never processed. SBA officials commented vaguely that we had too little management expertise—meaning, we supposed, no management-level whites. But Jim Brown, SBA's only black, who suffered a tragic death just a few months later, told me, "They're not going to do anything for you; you're just too dangerous."

According to minutes of an Alaska Associates meeting in June of that year, SBA had set aside jobs on the Fairbanks Federal Building for contracts in the 8(a) program but "there are not any minority contractors in the Fairbanks area on the list. SBA has not begun work on any of the papers submitted by the Association." An August letter from SBA to Senator Ted Stevens prompted by our complaints assured him that their Anchorage office should now have "adequate staff available to handle 8(a) applications expeditiously." I wrote in an April, 1976, Alaska Associates newsletter:

We are concerned about those matters—bonding, 8(a) set-asides with bonding prerequisites, and the size of government construction contracts—because they do not need to be problems. Our experience has been that Alyeska has been able to involve minority contractors much more effectively than the federal government and with a fraction of the manpower to accomplish it.

We feel that Alyeska has set an example in Alaska for others to follow. We have not been faced with the red tape and delays which many programs have thrust upon minorities. We have proven that we can perform and that has proved our case to Alyeska.

To balance the picture, though, I should note that in an almost simultaneous letter from Alaska Associates to the Congressional Black Caucus, Alyeska and Fluor are castigated for their attempts to squeeze out a couple of black and Alaska Native contractors, who "are considering giving up out of frustration. If that happens, it will appear that those minority firms just could not produce, when, in fact, it is Fluor which is deliberately plotting the dismantling of the minority contracts." Minority competition was obviously threatening both public and private defenders of the status quo. In summary, the May, 1976, Alaska Associates newsletter observes that "our present machinery will not suffice to bring minorities into the mainstream of federal contracting. Two U.S. Senators and one Representative have been unable to move one government agency on one small contract in behalf of minority contractors."

Within 6 months after publication of those brave pronouncements, Alyeska officials had persuaded the Alaska Associates board, by threatening to cancel all their contracts, to oust me; my Safeway Floor contract had been canceled; and an order to blacklist me had been spread to every lender, contractor, and supplier in the state. In those pipeline boom days, Alyeska the oil king's word was law.

A good measure of your influence, though, is the amount of opposition it generates. And my battles with SBA and Alyeska convinced me that none of us will live to enjoy economic parity until it is won for all of us. So a year later I was back in the thick of things. At the same moment that SBA was preparing its smear campaign and the ordinance battle was filling the front pages of the papers, Alaska USA Federal Credit Union, then the seventh largest in the country, granted me a construction loan for my 20-unit apartment building in Valdez. Evidently they wanted to put on a good face for the feds, but I believe that their decision to give me only $580,000 or 58 percent of the value of the completed project instead of the 75 percent normally given to whites is proof of their true intention: From the beginning, they only wanted to give me enough rope to hang myself.

Still, it was better than nothing; and I took it determined that the Ratcliff House, the house that blacks built, would be the finest and most beautiful, as well as the

largest, residential building in Valdez, the town they call the little Switzerland of Alaska. And it is. The tale of the building is complicated with countless episodes of fraud, collusion, and even sabotage by the credit union, climaxed nearly a year ago when, with the building filled to capacity and income sufficient to pay the $10,000 monthly installments on the 10-year loan we'd agreed to, the credit union nevertheless foreclosed and took the building for themselves. They have collected the rent ever since from every apartment except the one my family and I still live in; and although they've put a new name over the door, it is still the Ratcliff House to everyone in Valdez, a sure sign, I trust, that justice will be done and the building will be restored soon to its rightful owners.

It is the part played by a federal agency, the National Credit Union Administration, that makes this story relevant to my testimony today. Just as I am positive that the credit union's retaliation against me has had the full endorsement of the Alaskan banking community, I can only conclude that the NCUA's indifference to my complaints implies either complicity or incompetence. My clearest evidence of collusion among the lenders is a statement made by the senior vice president of Alaska's largest bank, who served on the blue ribbon committee that determined the fate of our minority ordinance two years ago. Asked to explain the credit union's cruel behavior, he referred to a simple sentence that we had added to the ordinance just before the final vote and that was credited with its defeat. The sentence read:

Bank deposits. Municipal funds shall be deposited in banks that demonstrate a record of equal opportunity lending.

And the banker said, "Surely you didn't think you could attack the banks like that and get away without being punished."

As to the NCUA, they don't appear to have actively opposed me but merely to have ignored my repeated pleas for help; and I wonder, if the banks are against you, is there anyone in government who dares to be for you? My letter to the NCUA dated December 12, 1979 (see copy enclosed), one of many, lists a number of questions prompted by their disclosure of an analysis they'd made of all Alaska USA loan accounts over $100,000.

I'm curious to know how you concluded that there is "no pattern or practice of racial discrimination" at Alaska USA. Did you find that those loan dollars were distributed by race in proportion to the racial composition of the Alaska population? or, more appropriately, perhaps, the racial composition of Alaska USA's membership? If not, am I to assume that minority members are less creditworthy than white members? And what did you find in the histories of the loans made to racial minority members (you needn't show me any names, of course)? Was anyone else's project "substantially under-funded from the beginning," as you recognize mine was? Were other projects delayed when funding increases were not approved promptly? and creditors unpaid despite an existing loan balance sufficient to pay them all? and a whispering campaign conducted by the credit union predicting a project's imminent collapse?

What proportion of minority-owned projects have been successfully completed and remain in the hands of their minority owners? What happened to those that did not? Were other projects repossessed by Alaska USA? And how does that record compare to the proportion of white-owned projects that are successfully completed and retained? If the comparison is unfavorable to minority members, am I to assume that minorities are poorer financial managers than whites? Or could it be that the credit union's "prudent lending policies" operate to preclude minorities from competing with more favored borrowers?

Your April 16 letter seems to respond only to my first letter to you, which was dated February 20. I haven't yet received any response to my letters of March 14 and April 12. You will note in reviewing my March 14 letter and its enclosures that Doug Howlett of Alaska USA appears to have perjured himself in an affidavit that supported the credit union's effort to place my building in receivership. According to the copy you sent me, the Federal Credit Union Act empowers the National Credit Union Administration Board to consider whether such an act by a credit union representative warrants a hearing before the Board, a cease-and-desist order, and an order that affirmative action be taken to correct the problem. My letter of April 12 and its enclosures recount acts of fraud and collusion and even sabotage that I have very good reason to believe were either committed or instigated by credit union representatives trying to force my project to fail.

The only response to all those questions is NCUA's letter of February 4, 1980 (see copy enclosed), accompanied by a thick file of all the correspondence that had passed between us, copies of which I already had, and by this censored version of the "analysis" (see copy enclosed). I think my loss to the credit union of a million dollar building deserves a little more attention than that.

You asked those testifying today for "recommendations to correct deficiencies in Federal assistance to minority businesses." You know the problems. You have probably heard stories just like ours in every city you've visited. And the laws, like 95–507, that you have worked so hard to formulate and pass, if only they were firmly and fairly applied, could go so far toward solving the problems that our natural competitiveness would carry us the rest of the way. But federal bureaucrats ignore and distort those laws and simple justice just as brutally as local police ignore and distort good laws and simple justice; and it's useless to fight the system alone.

I believe that real progress for our people depends solely on decisive, concerted political action by black business owners together with so many other black leaders that assassination of all the leaders of the movement would amount to genocide. And that is exactly the kind of political action that I'm proud to see emerging all over Anchorage this week.

Like the American colonists in 1776 and any people who love liberty and justice, we owe no allegiance to a government that fails to represent us and that persecutes and exploits us. But we owe it to ourselves and our children to design and build a better order; and with the unity I see around me now and the inspiration of your national perspective to guide us, I know that we shall overcome.

June 22, 1973

Alaska National Bank
Attn: John C. Caven, Asst. Vice Pres.
Alaska National Bank Building
Fairbanks, Alaska 99701

Re: Safeway FloorsCompany, Inc.
LOME 225,617 00 04 FAI

Dear Mr. Caven:

Your request of June 22, 1973 for an increase in Line of Credit on referenced loan has been approved.

The Blanket Line of Credit Guaranty Agreement is amended as follows:

In line 1 paragraph 3., delete "$30,000.00" and insert instead $$100,000.00".

Sincerely,

O. R. Elliott
Loan Officer

"20 YEARS OF SERVICE"

Safeway Floor Company, Inc.

1312 Mary Ann Street
Telephone 457-7255 or 456-7080
Fairbanks, Alaska 99701

March 18, 1976

Mr. Edwin H. Dreyer
Small Business Administration
504 Third
Fairbanks, Alaska 99701

Dear Mr. Dreyer:

This letter is to request that Mr. Robert Taylor, a former partner in Safeway Floor Incorporated be released from any and all obligations under terms of the loan #LCME 225-617-10-04 FAI, dated May 10, 1973. Mr. Taylor separated from Safeway Floor November, 1974, and has not been affiliated with the corporation as a business partner since that time. Since that time Safeway Floors has continued under my direct and sole management and supervision. Our increased cash flow and performance of contractual obligations attest to the corporation's success.

The stability of Safeway Floors as demonstrated by the recent financial statements and current cash flow allows us to continue to meet our obligations without binding Mr. Taylor either directly or by the implication of even having his name involved with the corporation. Therefore, it appears to be an orderly and businesslike arrangement to completely and forthrightly remove any obligation which may be binding on Mr. Taylor in Safeway Floor's transactions with the Small Business Administration.

In addition, I am prepared to begin payments of two thousand dollars ($2,000.00) per month on the unpaid balance as soon as I am notified that Mr. Robert Taylor has been released from all obligations.

I would appreciate your prompt attention to this matter.

Yours truly,

Willie Ratcliff

Willie Ratcliff
President

U.S. SMALL BUSINESS ADMINISTRATION
Suite 200 Anchorage Legal Center
1016 W. 6th Avenue
Anchorage, Alaska 99501

May 10, 1976

Mr. Willie Ratcliff, President
Safeway Floor Co., Inc.
1512 Mary Ann Street
Fairbanks, Ak. 99701

Re: SAFEWAY FLOOR CO., INC.
LCME 225617 10 04 FAI

Dear Mr. Ratcliff:

Sorry for the delay in replying to your letter of April 2, 1976 addressed to Mr. Frank Cox. The status of captioned loan is that the maturity date of the Note was accelerated April 11, 1975 and the total amount is past due. No legal action had been taken as it was understood the total due was to be paid in full by February 1976. Under the circumstances there is no way that Mr. Robert Taylor, who is equally liable, may be released from his obligation to the Small Business Administration.

Foryour information, the total due at the present time is greater than the amount due on April 11, 1975. If you have the ability to pay $2,000.00 per month, as stated in your letter of April 2, 1976, it is strongly suggested that you do so.

Please let me know by return mail what your intentions are in regard to this matter.

Sincerely,

Edwin H. Dreyer
Loan Officer
Portfolio Management Division

pages tightly bound

best copy available

95-601 O—80——7

U.S. SMALL BUSINESS ADMINISTRATION
Suite 200 Anchorage Legal Center
1016 W. 6th Avenue
Anchorage, Alaska 99501

May 12, 1976

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Willie Ratcliff, President
Safeway Floor Co., Inc.
1512 Mary Ann Street
Fairbanks, Ak. 99701

Re: SAFEWAY FLOOR CO., INC.
LCME 225617 10 04 FAI

Dear Mr. Ratcliff:

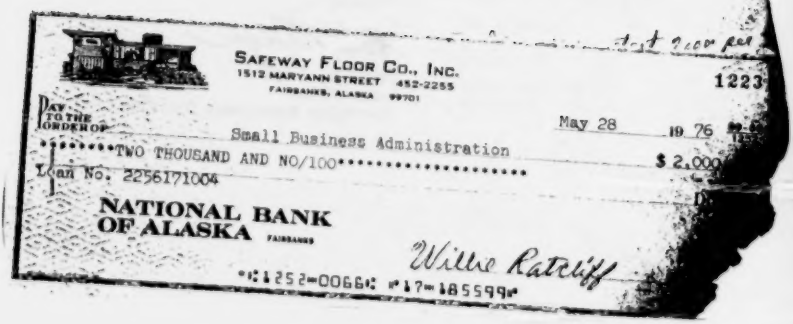
The enclosed check #1151 dated May 6, 1976 in the amount of $350.00 payable to Small Business Administration is returned as not being sufficient for an orderly repayment of captioned loan.

The $2,000.00 monthly installment mentioned in your letter of April 2, 1976 would be acceptable. If you have any questions,please do not hesitate to contact me.

Sincerely,

Edwin H. Dreyer
Loan Officer
Portfolio Management Division

Enclosure



New address:
213 West Sixth, Suite 3
Anchorage, Alaska 99501
Phone: 277-4454

March 3, 1977

Robert A. Schlotfeldt
U. S. Small Business Administration
501½ Second Avenue
Fairbanks, Alaska 99701

Edwin H. Dreyer
U. S. Small Business Administration
Suite 200 Anchorage Legal Center
1016 West Sixth Avenue
Anchorage, Alaska 99501

Gentlemen:

You have expressed your concern about our delinquent loan payments, and you have asked me to put in writing the reasons for the delinquency and to propose a remedy.

Of course I share your concern. Our inability to make prompt repayment is itself an unexpected and unwelcome burden in addition to the burdensome financial problems that caused that inability. I say unexpected because the problems have come on gradually and from a number of different directions at once, and because the assets, especially the receivables, that should have been sufficient to carry us through the ordinary risks of doing business have proven unreliable or unavailable.

These recent reversals are no cause for despair, however, as they have pointed out certain pitfalls to avoid and precautions to take in order to protect our future productive capacity. We have learned, for example, that a good reputation among a company's creditors is a great asset. Creditors' fears that they will not be paid are a threat to that asset and, in turn, to the company's survival if further credit is refused. As part of an effort to dispel such fears among our creditors - fears that seem to be fed by a failure to communicate - we have sent them letters like the one enclosed. Please accept it as an explanation of our problems and an example of our determination to overcome them.

As you know, we have anticipated more than once being in a financial position that would allow full repayment of Loan No. LCME 225,617 10 04 FAI. Each time, our expectations have been disappointed; and we have been forced to choose between full repayment and corporate survival. Choosing the latter course allowed our continued contribution to the economy and slow but sure repayment of the loan as well. In our letter of April 18, 1975, we proposed to pay $350 a month for two years; and, although we had hoped but were unable to continue the accelerated payments begun last spring, our 1976 total of $7,750 paid toward this loan is evidence of our faithfulness to that earlier objective. Despite the difficulties, we still "look forward" as we did then "to our financial condition to improve." A financial statement that our accountant has almost completed (we will send you a copy as soon as it comes in) should help us obtain the support we need in order to predict our repayment ability over the next few months.

As your own service in assisting small businesses will verify, I'm sure, the factors that make us small and disadvantaged do not instantly evaporate with our first SBA loan. The road to effective competitiveness is long, and few firms achieve complete independence. Along the way, we learn from our mistakes, if we are not to be destroyed by them. And we look to you for advice to correct our course. It is when its experience proves inadequate, its judgment ill-advised, or its luck down that a small business most needs the SBA.

The best remedy for our financial problems is vigorous participation in the 1977 construction season; and to assist us, there is no organization better equipped than yours. We hear, for example, that numerous public works projects are scheduled by a variety of government agencies; and we would like your help in locating all those that keep bidders' lists so that we may be included. There should be especially good demand for our new specialty, lightweight concrete, as it is very popular with architects and builders but has not been regularly available in Alaska in the past. In fact, any impairment of our productive capacity, such as our current financial bind, invites a monopoly in the lightweight concrete field by our single big business competitor. Perhaps one of your staff could counsel us on how best to inform Alaskan architects and builders about our services.

Like many founders of small firms, I have worked my way up - literally, in my case, up out of the mud - to administrative level. To this day, there are many

when I must pull on my boots and slog around a wet concrete floor helping my workers, nearly all minorities like myself, to gain the skill and confidence that may eventually see them through a similar transition from employee to employer. Perhaps the primary factor in convincing you to bear with us for so long has been the commitment of our company, in accord with that of our government, to increase minority participation in the economy. That commitment, so essential to the vitality of the American economy as a whole, can, on our part, be only as strong as our company. And so I trust that we can continue to rely on the support and encouragement of the SBA as we work to regain our strength.

Sincerely,

SAFEWAY FLOOR COMPANY, INC.

Willie Ratcliff

SAFEWAY FLOOR COMPANY, INC.

926 East 13th Avenue
Anchorage, Alaska 99501
Phone 277-4454

March 6, 1978

Edwin H. Dreyer, Loan Officer
Portfolio Management Division
U. S. Small Business Administration
Suite 200 Anchorage Legal Center
1016 West Sixth Avenue
Anchorage, Alaska 99501

Re: EOLME 80116 20000

Dear Mr. Dreyer:

Less than a month ago, the building that housed Safeway Floor's office and all our construction equipment and supplies was destroyed by fire. Fortunately, a large part of our records escaped with no more than the burned edges you'll notice on the copies of some of our past correspondence that I am enclosing.

Our recovery from the fire and from the difficulties that had plagued us since August of 1976 is proceeding rapidly. We have moved into a new office and have signed several contracts for the upcoming construction season. Most remarkably, I have secured financing to complete my 20-unit apartment building in Valdez and will be resuming construction in about a month.

Last July 25, I wrote to ask "what sort of repayment plan you consider satisfactory and to arrange to meet with you at your convenience." I have received no response from the SBA except the interview regarding my loan history that your agency granted the press in November (copies enclosed) and the Notice of Default and Sale, Deed of Trust Foreclosure sent to me in December.

The purpose of SBA, as I understand it, is to help small businesses survive and succeed. Minorities, traditionally shunned by private financial institutions, are heavily dependent on SBA's help. Perhaps because minorities seldom have the opportunity to gain a financial track record, SBA tends to collateralize its loans to minority businesses extra heavily. If the business fails, the government loses the taxes that the business and its employees would have paid and it loses the

contribution that the business made to our nation's economy; but it does not lose its money. Seizure and sale of the collateral satisfies the debt.

If the SBA is truly dedicated to the survival and success of the small businesses it loans money to, the seizure and sale of the collateral securing those loans is a step that should reasonably be taken only when the failure of a business is imminent and unavoidable.

Safeway Floor is not failing. We survived a year and a half of blacklisting, we are surviving a fire, and we will survive to repay our SBA loans. Safeway Floor has never defaulted on a construction contract, and we honor our financial commitments as well. Our corporate survival depended on our altering our payment schedule to SBA, and for that decision we have paid a severe penalty in interest and negative publicity.

Instead of selling at public auction on March 16 the real property that secures our loan, we request that SBA extend the period for repayment of our loan by the number of months we have been unable to make payments and approve a new payment schedule of $300 a month to begin 30 days from today.

I look forward to discussing this or other options you may suggest.

Respectfully,

SAFEWAY FLOOR COMPANY, INC.

Willie Ratcliff

Willie Ratcliff
President

cc: Frank Cox

Certified Mail

2—Anchorage Daily News, Thursday, November 17, 1977

Job task force leader's loan in default--SBA

By BILL WILSON
Daily News Staff Writer

The leader of the Minority Business Task Force, a group pressuring the Anchorage Assembly to award a greater share of municipal contracts to minority businesses, defaulted on a $25,000 loan from the Small Business Administration, an official of the agency says.

Willie Ratcliff was awarded the $25,000 on Feb. 6, 1970, according to Howard Reed, Small Business Administration district counsel. The money has not been paid back.

DURING recent assembly meetings dealing with minority business problems, SBA has taken considerable heat for what angry blacks and assemblyman Dave Rose have characterized as limp and ineffective performance.

Ratcliff, who in addition to his work with the task force is chairman of the Alaska Minority Business Assistance Center — a young organization seeking to increase minority business activity — admits to the debt, but denies that it harms his groups' credibility.

"I owe a lot of money to everybody, which I am not ashamed of," he said. "This is pretty small of the SBA to do this, but I guarantee that they will come out of this thing looking a whole lot worse than they are now."

IN ADDITION to the unpaid $25,000 loan, Ratcliff got into hot financial water with what Reed says was a $100,000 line of credit extended to Ratcliff and Robert Taylor of Fairbanks by the business administration. Officials of the SBA flew to Fairbanks to testify against Ratcliff in a suit filed against him by Taylor when the partnership using the credit folded.

Ratcliff confirmed that he had lost the suit, but said the line of credit was $30,000 rather than $100,000.

Reed refused to say when the debt was due or to describe the nature of the SBA testimony at the Fairbanks trial. The line of credit was extended in May, 1973.

ROSE was leery of predicting the impact of Ratcliff's debt. "Is this an isolated case?" he asked. "I'd like to know if it was a technical default or what. Default means different things . . ."

At Tuesday night's meeting, the assembly responded to what some members called an "ultimatum" to expand its minority business subcommittee by adding three more members.

ALASKA MINORITY BUSINESS TASK FORCE

550 West International Airport Road
Anchorage, Alaska 99502
277-4454

November 17, 1977

Statement of Willie Ratcliff, Task Force coordinator, in response to Anchorage Daily News story of this date entitled "Job task force leader's loan in default--SBA":

"The minority people of Anchorage want jobs, and they're not going to stop wanting jobs just because I owe SBA some money. Jimmy Carter couldn't make any payments on his peanut farm's SBA loan while he ran for governor of Georgia, and SBA gave him an extension. If I remember the news story right, he said he owed that cooperation to the help of his banker friends. When he added that it's a good thing he wasn't black, he must have been referring to the traditional partnership between the banks and the SBA, a partnership that operates as collusion against minorities.

"Now people will understand why minorities needed more representation on the committee Ernie Brannon appointed to study our minority ordinance. Each one of us has to be the voice of thousands of minorities that no one else represents. And all we have is our voices. We don't have access to private confidential government files to conduct smear campaigns the way SBA does.

"I guess this is how America assassinates its black leaders. South Africa only does it a little more brutally.

"Sure, I've piled up a lot of debts since my outspokenness got me blacklisted over a year ago. I owe my survival since then to the friends and family who have loaned me thousands of dollars and given their wholehearted support to the movement at the same time.

"It's funny to see the SBA acting scared of a movement that would give minorities a fair chance to succeed in business so that we can all pay off our SBA loans and get out from under their harrassment.

"Along with this statement, I'm giving all the news media access to my SBA loan files and copies of anything they want. Anyone who's interested in how SBA treats its debtors will find a good story in my files.

(continued)

"I wish I could give the media a copy of the transcript of that trial the Daily News referred to in Fairbanks, but I hear that the judgment was just issued yesterday and I haven't even seen it yet. I should have known that if the SBA would go to the trouble to fly to Fairbanks to testify against me in a suit they were no party to, they'd stop at nothing."

Willie Ratcliff

Willie Ratcliff

cc: All Anchorage news media
President Jimmy Carter
Congressional Black Caucus
Jack Anderson
National Urban League
N A A C P
National Association of Minority Contractors
Senator Mike Gravel
Senator Ted Stevens
Congressman Don Young
Secretary of Commerce Juanita Kreps

2 The Anchorage Times, Thursday, November 17, 1977

Man Who Criticizes SBA Is Behind On Loan Payments

By DON HUNTER
Times Staff Writer

A minority businessman who has criticized the effectiveness of the federal Small Business Administration in Anchorage is himself behind on loan payments due to the agency, officials said yesterday.

Willie Ratcliff, coordinator of the Alaska Minority Business Task Force and an architect of a current proposal before the Anchorage Municipal Assembly to set aside 15 percent of municipal contracts for minority businesses, is in default on payments on a $25,000 direct loan from the agency, said Howard Reed, the agency's Alaska district counsel.

That loan, approved in 1970, was originally set to be paid off in 1980 but has been extended to 1982, Reed said.

Ratcliff said this morning he is "just behind in payments" on the loan. He said he has "asked for extensions several times" but that the agency has refused. He said he has been "blacklisted for over a year" by the agency and financial institutions because of his outspoken stand on minority business.

In a prepared statement, Ratcliff offered to open his Small Business Administration loan files to the press. "Anyone who's interested in how SBA treats its debtors will find a good story in my files."

In addition, the agency was asked to purchase a line of credit loan made to Ratcliff and a former partner, Robert Taylor, by a Fairbanks bank after they apparently fell behind in payments, Reed said. Under another assistance program, the agency had guaranteed 90 percent of that loan, which carried a ceiling figure of $100,000.

The agency subsequently bought the loan at the bank's request for about $45,000 — 90 percent of the outstanding amount of approximately $50,000, Reed said.

Litigation was brought against Ratcliff by Taylor following that.

Ratcliff confirmed that Taylor had sued and said he has heard that a judgement has been issued against him.

Reed refused to say specifically why the bank asked the agency to purchase Ratcliff's loan, but he said such a request is made "normally because payments are delinquent."

Another agency official said Ratcliff has paid off a disaster loan made to him earlier by the business administration.

Direct money loans from the agency are loans out of federal funds. Under the loan guarantee program, the agency gives a high percentage guarantee that enables or encourages banks or other lending institutions to make loans they otherwise might refuse.

Ratcliff and other minority businessmen testifying at an Anchorage Municipal Assembly public hearing last month voiced strong criticism of the federal agency's record of assistance to minority businessmen.

The task force claims that minority and small businessmen are blocked from competing fairly for municipal contracts because of difficulties in obtaining loans for working capital and bonds required by the municipality for bidding and contract award.

141 Alaska Street #13
P. O. Box 1010
Valdez, Alaska 99686
May 21, 1979

A. W. Lingle, Supervisory Loan Specialist
U. S. Small Business Administration
Suite 200, Anchorage Legal Center
1016 West Sixth Avenue
Anchorage, Alaska 99501

CERTIFIED MAIL - RETURN
RECEIPT REQUESTED

Re: EDUE 501162 0000 ANC

Dear Mr. Lingle:

On March 6, 1979, you sent me a notice of default and sale, deed of trust foreclosure, on my property in Fairbanks, Lots 13 and 13A, Rivers-Judd Subdivision, that constituted the original collateral for this loan. The notice cites your letter of March 30, 1977, that announced acceleration of the entire principal balance but fails to mention my May 2, 1978, payment of $6,667.71, which was supposed to have been credited to this loan. That payment alone, spread over the two years between March of 1977 and 1979 approximates the $300 monthly payments that I originally agreed to make toward this loan. Neither does this latest notice mention the additional collateral I gave SBA on March 10, 1978, consisting of another downtown Fairbanks lot, Lot 11A, Block 23, Rickert Subdivision, and an assignment of rents from my new 20-unit apartment building in Valdez, located on lot 12, Block 15, Mineral Creek Subdivision. Given the dreadful current state of the Fairbanks economy, the interests of the U. S. Government would be very badly served by selling those two lots at give-away prices, satisfying only a small part of the debt, and increasing the odds against my being able to pay the remainder. Surely, with all that collateral, potentially very valuable if not currently so, and my repayment ability now that the apartment building is completely rented, we can find a better solution for repayment of this loan.

During construction of the oil pipeline, Valdez was the scene of most of the $15 million in Alyeska contracts that I negotiated, signed, and managed as head of Alaska Associates, Inc., and Safeway Floor Company, Inc. And now that Valdez is Alaska's only town with another boom on its doorstep, I am the owner/builder of Valdez' largest and finest residential building and have made the town my home. I am proud of that record and even more proud that I have put every effort and resource I've earned, not into securing my own position, but into holding the door open for my fellow minorities to join the competition of free enterprise. Inciting fears that minority competition might turn the complexion of business to that of basketball, my advocacy of minority enterprise has made me the target of some of the biggest business and financial powers in the state.

Despite top performance and efficiency ratings from Alyeska, my insistence on minority crews and assistance to Native and other minority

pipeline contractors whenever discrimination threatened them brought down on me a nonjudicial sentence of blacklisting that has locked me out of construction contracting for nearly three years. Then, during the nine months of 1977-78 that the minority contracting ordinance I wrote and fought for was before the Anchorage Assembly and the state legislature and making news headlines, I incurred renewed wrath from AGC, the banks, the bonding companies, and even a newspaper owner by your agency.

If a good measure of a person's effectiveness is the opposition he generates, then the construction of The Ratcliff House in Valdez, the largest building built and owned by blacks in Alaska, is my most remarkable accomplishment. Alaska USA Federal Credit Union approved financing for the project (though in the amount of only 58 percent of the value of the building) right at the height of the ordinance controversy when some institutions were seeking to improve their minority record in case we should win. As the ordinance went down to defeat, though, and business and financial powers resolved to punish me as an example to any other "uppity niggers," the loan record became riddled with long delays in releasing funds and approving an increase to the normal 75 percent of value, the resultant loss of credit and experienced personnel and higher costs, a "sale" of the building to Alaska Brick whose confirmation we have blocked, an attempt made and soon retracted by the credit union, based on admittedly perjured testimony, to appoint a receiver, and now the credit union's plans for foreclosure and sale, which I'm confident can be avoided. I accept the leadership role assigned me by my opposition and am determined to be a good example to Alaska's minority people. I certainly have not come this far to give up.

Valdez, knowing my color and my past, has welcomed me, perhaps because of the unique asset I have given the town and the long, hard hours they have watched me work to complete it. The enclosed Valdez Vanguard article of March 21 drew encouragement and offers of help from all sides; and the ad, also enclosed, ran in only three issues of the paper before the building, though unfinished, was completely rented. We have rushed to complete the apartments as each family moved in, some of them helping with the finish work. Now all but two apartments are occupied, the rec room remains to be outfitted with its kitchen, jacuzzi, and saunas, and the halls and stairwells are lacking their carpeting and a final coat of paint.

You may well ask why SBA has not begun receiving its portion of the rental income. I assure you that I will honor the assignment of rents I made to SBA and can begin on July 1 to send $750 monthly payments to be credited to the EDLHE loan and soon thereafter the full $1,500 a month to be divided between the two loans. Since the first apartment was rented in March, I've plowed every penny of rental income back into completion of the building. Valdez Builders, the only supplier in the state still extending me credit, and the local utility and fuel companies have accepted small good will payments on their very sizeable accounts to keep the building going. Most of the small crew that has stayed on is working in exchange for rent. No wages have been paid since November 30, 1978, and the credit union made its last disbursement in January.

Nevertheless, with no mortgage payments to make pending a settlement with the credit union, with few additional purchases needed to complete construction, and assuming the building stays fully occupied, rental income should be sufficient to pay all outstanding project accounts - labor and materials - within about a year. Good news came this Saturday when our bid to finish the basement and garage slabs for the Alyeska housing relocation job here was accepted at a total price of approximately $33,000. We also plan to bid other projects, both private and City, around town this summer. Our overall income should therefore be ample to insure that the schedule outlined above for repayment of my SBA loans can and will be met. I'm sure you'll agree that repayment of the loans is far superior to seizure and sale of collateral, especially in a severely depressed real estate market.

Once again, I'd like to emphasize that the $6,667.71 payment of May 2, 1978, is to be credited to BOLME 801162 0000 ANC, reducing the balance of principal and accrued interest to approximately $11,700.

Please don't hesitate to call me at 835-2418, which serves as both my work and home phone. As I am often out of the apartment, though, I'll give you a call if I don't hear from you so that this matter can be resolved as soon as possible.

Sincerely,

Willie Ratcliff

cc: Senator Mike Gravel
Senator Ted Stevens
Congressman Don Young

U.S. SMALL BUSINESS ADMINISTRATION
Suite [illegible] Anchorage Legal Center
[illegible] W. 6th Avenue
Anchorage, Alaska [illegible]

May 30, 1979

Mr. Wille Ratcliff
141 Alatna Street #13
P.O. Box 1010
Valdez, Alaska 99686

Re: Safeway Floor Company
EDLME-801-142-00-00-AMC

Dear Mr. Ratcliff:

This is answer to your letter dated May 21, 1979 addressed to Mr. A. W. Lingle, Supervisory Loan Specialist of the Anchorage District Office.

In your letter you questioned the application of a $6,667.71 payment to your line of credit loan(loan number LCME-225-617-10-04 FAI); you had indicated that the payment should have been applied to subject loan. Please be advised that the payment was received from Barbara Schuhman, attorney for Robert Taylor in exchange for SBA's release of Mr. Taylor, and his wife, and Cy pree Construction Co. from liability on both loans. The funds were applied to the largest loan at our option. Other than the payment from Barbara Schuhman we have received no payments on either loan for over a year. In fact, the last activity on subject loan was March 29, 1977.

Because of the continued delinquency on this loan, and because the sale of the two lots in Fairbanks should have no bearing on the continuance of your apartment house business in Valdez, the foreclosure sale will go on as scheduled.

Sincerely,

C. W. Maxson
Loan Officer
Portfolio Management Division

141 Alatna Street #13
P. O. Box 1010
Valdez, Alaska 99686
December 12, 1979

Earl F. Bradley, Regional Director
National Credit Union Administration
Two Embarcadero Center, Suite 1830
San Francisco, California 94111

Re: Alaska USA Federal Credit Union

Dear Mr. Bradley:

Enclosed are copies of a suit filed against me by Alaska USA and Brokers Title and of the answer I was forced to file when negotiations to find another solution were unsuccessful. Although many attorneys I have talked to agree that my case is meritorious, none has been willing to take on an institution as powerful as the credit union because, they say, "I have a mortgage, too." And so my assistant and I researched, wrote, and filed the answer ourselves. Our records are meticulous, and we can prove our allegations.

Except for the copies of Regulation B and the Federal Credit Union Act that your office sent me last April 18, my most recent letter from you is dated April 16, 1979. I didn't respond sooner because, at the time, my family and I were working 18 hour days to finish the apartments, with tenants lined up waiting to move in, and because, in spite of everything, I have stubbornly believed that some resolution of my differences with the credit union, short of court action, could be found.

Now that the issue is in court, however, as complete a picture as possible of what happened and how and why it happened must be compiled. The enclosed copies of letters dated September 13 and 17 between me and the credit union show that they are willing to volunteer very little information. I hope that your agency will not hesitate to copy and send me the complete contents of my file, and I would like you to consider this a formal request that that be done right away.

I am particularly eager to read the analysis referred to in the first paragraph of your April 16 letter of all loan accounts over $100,000. I'm curious to know how you concluded that there is "no pattern or practice of racial discrimination" at Alaska USA. Did you find that those loan dollars were distributed by race in proportion to the racial composition of the Alaska population? or, more appropriately perhaps, the racial composition of Alaska USA's membership? If not, am I to assume that minority members are less creditworthy than white members? And what did you find in the histories of the loans made to racial minority members (you needn't show me any names, of course)? Was anyone else's project "substantially under-funded from the beginning," as you recognize mine was? Were other projects delayed when funding increases were not approved promptly? and creditors unpaid despite an existing loan balance sufficient to pay them all? and a whispering campaign

conducted by the credit union predicting a project's imminent collapse?

What proportion of minority-owned projects have been successfully completed and remain in the hands of their minority owners? What happened to those that did not? Were other projects repossessed by Alaska USA? And how does that record compare to the proportion of white-owned projects that are successfully completed and retained? If the comparison is unfavorable to minority members, am I to assume that minorities are poorer financial managers than whites? or could it be that the credit union's "prudent lending policies" operate to preclude minorities from competing with more favored borrowers?

Your April 16 letter seems to respond only to my first letter to you, which was dated February 20. I haven't yet received any response to my letters of March 14 and April 12. You will note in reviewing my March 14 letter and its enclosures that Doug Howlett of Alaska USA appears to have perjured himself in an affidavit that supported the credit union's effort to place my building in receivership. According to the copy you sent me, the Federal Credit Union Act empowers the National Credit Union Administration Board to consider whether such an act by a credit union representative warrants a hearing before the Board, a cease-and-desist order, and an order that affirmative action be taken to correct the problem. My letter of April 12 and its enclosures recount acts of fraud and collusion and even sabotage that I have very good reason to believe were either committed or instigated by credit union representatives trying to force my project to fail.

Despite all the obstacles, by the time the credit union repossessed my building, every one of the 20 apartments was rented and the income was ample to make the payments on the loan I was never allowed to repay. The people of Valdez know who built this building, the largest and finest residential building in our town; and they still call it the Ratcliff House, even though the credit union changed its name. They remember when it was a clean and friendly and well maintained place to live in and visit, even though the police officers that the credit union installed as resident managers after the takeover are allowing it to fall into ruin. Garbage, uncollected for weeks, litters the halls and laundry, the sauna and jacuzzi rooms have never been cleaned, and the stench is terrible. For months the hot water supply has been only intermittent, and requests by tenants for repairs of any kind are shrugged off by the managers, who threaten to arrest people who dispute them. A protest organized by tenants in late September, including a petition signed by them all, accomplished little; and so now many of the apartments, which last summer were so desirable we had a long waiting list, are now empty. My family and I are still here, even though the credit union is still trying to have us evicted.

It may be, without any legal help, I won't get very far in Alaskan courts. And so I am asking the Congressional Black Caucus for advice in locating a lawyer who may help me take the case to federal court. I'm convinced, however, that a thorough investigation by an impartial agency such as yours can expedite a fair settlement, whether in or out of court, and insure, as I said in a

previous letter, that no member ever again will have to live in fear of his own credit union. The Alaska State Commission for Human Rights has reopened my case now that I have resigned as a commissioner; and so, as I suggested once before, your investigators may want to work cooperatively with theirs.

I look forward to your reply. If there is any assistance I can give by phone, my number is 907/835-2418.

Sincerely,

Willie Ratcliff

Willie Ratcliff

Enclosures:
Complaint and answer, Alaska Superior Court Case No. 3AN-79-7935
Correspondence dated September 13 and 17, 1979, regarding disclosure of my Alaska USA file

cc: Alaska USA Federal Credit Union
Alaska USA Supervisory Committee
Alaska State Commission for Human Rights
Representative Parren J. Mitchell
Senator Mike Gravel
Senator Ted Stevens
Representative Don Young

P. S. Since this letter was drafted, a wind storm has come up and is causing extensive unnecessary and easily preventable damage to the building. For example, the hatches leading to the attic had been carelessly left open by the credit union-appointed managers and the fire door had been propped open after all the lights in the stairwell had burned out; and consequently the third floor hallway became so cold that the sprinkler pipes froze and burst and are falling through the ceiling onto the floor. Heat tape wrapped around the pipes had never been connected. The furnace is unmaintained, filthy, and not working properly; and a fire, now that the sprinkler system is down, would probably take the building - and many lives. The local plumbing contractor estimates the damage to the sprinkler system at $15,000, and the City has called for evacuation of the third floor. The cost of eight families' motel rooms and of repairs will presumably be called by the credit union another "cost of construction" and added to my loan should I regain the building.

wed 2-13-80

NATIONAL CREDIT UNION ADMINISTRATION
Washington, D. C. 20456

Office of Administration

February 4, 1980

Mr. Willie Ratcliff
P. O. Box 1010
Valdez, AK 99686

Dear Mr. Ratcliff:

This is in response to your Freedom of Information request of December 12, 1979, to Mr. Earl F. Bradley, Regional Director, National Credit Union Administration (San Francisco).

I am enclosing all of the information in our agency's files concerning your case that we believe is disclosable under the provisions of the Freedom of Information Act. You will note that a substantial amount of the enclosed material was originally received from you.

A portion of Examiner Metz's memo of March 16, 1979, has been deleted under the provisions of 5 U.S.C. sections 552(b)(5) and (b)(8) of the Freedom of Information Act, as the deleted portions concern intra-agency memorandums or are related to examination reports. We have not forwarded Examiner Metz's notes from which his March 16, 1979, memo was prepared, as they are also exempted under the aforementioned sections of the Freedom of Information Act.

In the third paragraph of your letter of December 12, 1979, you ask that we provide you with the complete contents of your file. We have done this to the extent that your request refers to your file with the National Credit Union Administration. However, we have no authority, under the provisions of the Freedom of Information Act, to require the Alaska USA Federal Credit Union to release to you the contents of your file with the credit union.

You have the right to appeal my determination. All appeals should be addressed to the Director, Office of Administration, National Credit Union

Administration, Washington, D. C. 20456 and should be clearly identified as such on the envelope and in the letter of appeal by using the indicator "FOIA-APPEAL."

Sincerely,

Bernard Snelnick

BERNARD SNELNICK
Freedom of Information Officer

Enclosure

Memorandum

19 MAR 79 09 45

VI/MRC:iem
DATE: March 16, 1979

FROM: Supervisory Examiner, Group A

TO : Assistant Regional Director, Region VI (San Francisco)

SUBJ : Alaska USA FCU #5913 - Member Complaint

REF : (a) ARD's Memo VI/MRM:tw, FCU 5913, dated February 28, 1979, same subject
(b) NCUA Instruction VI 4000.1, dated March 24, 1976, subject: Complaint Letters
(c) Complaint letter, member Willie Ratcliff, dated February 20, 1979

ENCL : (1) Summary of Member Complaint Letter with various supporting documents from members loan file.

1. In accordance with the instructions of references (a) (b) and items in reference (c), this memo and enclosure (1) is submitted as support to our review.

2. During the examination of subject Federal credit union the loan account of complaining member Mr. Willie Ratcliff was reviewed. Additionally, all loan accounts (156 members) over $100,000 were reviewed. Most of these loans were construction or development loans. Similarly 5 percent of loans ranging from $30,000 to $100,000 were randomly selected and reviewed. Although our loan review revealed poor construction lending practices, no evidence of racial discrimination was encountered.

3. Review of the member's construction loan file disclosed several signigicant factors that resulted in this loan becoming a problem loan, ultimately ending in foreclosure.

a. The member was an experienced builder
b. The member's company was the principal contractor on the project. Total estimated costs for the project as submitted by the member were $701,129. The member's company was benefactor for $215,249 or 31 percent of the total costs.
c. The appraisal report estimate of costs was $903,000. The loan amount granted was only $580,000. There was no reconciliation between the appraised cost estimate and the member's cost estimate. No front money deposit was required by the credit union. The indicated shortage of construction funds at the loan date was between $121,129 and $323,000.
d. The member recognized his construction loan was insufficient to provide for project completion. The member commenced construction relying on side work and other business profits to provide whatever additional funds were needed. The member's project superintendent did not perform. Consequently the member had to abandon side interests and personally supervise the work. Therefore the members's extra source of funding for the project dried up and the project started faltering.

. In reference (c) several allegations and requests have been made and were complicated y insinuatiions of racial discrimmination in lending practices at subject Federal credit nion.

a. The member requested copies of the Feral Equal Credit Opportunity Act, and copies of laws and rules and regulations under which the National Credit Union Administration operated. These publications are part of public records available through the

U. S. Government printing office. These publications are also available in the law section of most major public libraries.

b. The member requested that the National Credit Union Administration authorize the credit union to increase its loan to himself above 75 percent of appraised value. Additionally, the member requested the National Credit Union Administration to authorize an increase in his loan in order to pay extra costs and losses totaling $155,950.50. The National Credit Union Administration is not empowered to grant loans to individual credit union members, nor to usurp prudent lending policies established by individual credit union directorates. The credit union does not base its construction loan policy concerning loan amounts on a percentage of appraised value, rather it uses a percentage of cost estimates. The loan balance as of January 31, 1979 is $745,000 or 106 percent of original cost estimates and 82 percent of appraised value.

c. The member alleged that the funding delay on his construction loan was caused by senior mortgage officer Leo Pancher. It was further alleged that the funding delay was the result of inexperience, sloppy record keeping, or deliberate ill will.

EXEMPT PURSUANT TO 5 USC §552 (b)(5)+(b)(6)

Delays in funding this project were also aggravated by the member not obtaining sufficient funding to build his apartment project at the beginning of the loan.

d. The member alleged that senior mortgage officer Pancher was influenced by personal friends who were employed by the member's major suppliers. Consequently, the allegation claimed the loan officer's friend's invoices were given preferance in payment. The loan file reveals that bills submitted during construction were paid in full as evidenced by lien waivers and invoices.

e. The member alleged that senior mortgage officer Pancher incited panic among suppliers by stating that the project was in serious jeopardy and urging them to file liens. This allegation is not within the prerogatives of the credit union or the National Credit Union Administration to resolve. The member should pursue resolution of slander allegations upon the advice of competent legal counsel.

f. The member alleged that the credit union refused to increase his personal loan even when payments were current and the balance as under $1,000. Review of the member's consumer loan file disclosed that the credit union rejected a $19,965 furniture loan application. The application was dated December 15, 1978, and the rejection occurred within a reasonable period on December 27, 1978 with formal notification on January 3, 1979. The credit union loan policy does not include financing household goods. The loan was turned down due to "the purpose to buy furniture for apartment complexes, the amount requested, and the collateral offered". Further analysis of the rejected loan application revealed that the member's debt ratio with the new loan payment, if approved as requested, would have been 53 percent, and he supports a family with three dependent children.

g. The member alleged that Alaska's lending institutions are frightened due to the tight economy and that minorities are least likely to secure financing because their track records are not examined in light of lifetimes of racism. Prudent lending practice requires lenders to fund projects based upon the need for the project, the estimated of project market value, and the financial condition of the borrower. The credit union granted this member a loan to construct a 20 unit apartment building. This loan was granted without obtaining or requiring any feasability study to establish a need for the project. The loan was granted without documented analysis or even verification of the member's self prepared, unaudited financial statements.

h. The member alleged that the credit union apparently made him the loan in order to force his failure and use that failure to prevent making loans to other minorities. The member's loan file showed that the member had adequate financial condition to qualify for the loan. The loan file also shows the reason for failure was the member's decision to start his project knowing that he did not have sufficient funds to achieve completion. The credit union has stopped granting large loans because of liquidity needs generated by tightening economic conditions.

i. The member alleged that he was dissatisfied with the way the credit union handled his construction and that he would seek others who have similar complaints and fears of foreclosure. The credit union is currently responding to the pressures of a tightening economic environment. Consequently foreclosure is becoming more frequent. Most of the credit union's large construction projects entering foreclosure are the result of the builder's end financing commitments drying up. Few borrowers who have obtained interim financing at the credit union are financially able to make the monthly payments necessary to fully amortize their construction loans over a 12 year period. Federal credit unions are not legally empowered to extend loans on apartment houses larger than and owner occupied four family dwelling unit beyond 12 years. The member's end financing commitment for $680,000 expired October 1, 1978 and his present loan balance is $745,000.

EXEMPT PURSUANT to 5 U.S.C. § 552 (b)(5) + (b)(8)

6. On February 23, 1979, a lein foreclosure sale was held and Mr. Ratcliff is no lonver in control. Alaska Aggregate Inc. is in control of the property. Court action will have to be taken by the credit union to protect its interest. I also understand that Mr. Ratcliff plans to take court action against all parties concerned.

I. Eugene Metz

Mr. MITCHELL. Mr. Eaddy, I know you have to leave. You are in Fairbanks?

Mr. EADDY. Yes, sir.

Mr. MITCHELL. I am sorry we didn't get you on earlier. I do appreciate your coming here.

TESTIMONY OF CHARLES EADDY, PRESIDENT, D. F. EADDY & ASSOCIATES, INC., FAIRBANKS, ALASKA

Mr. EADDY. My name is Charles Eaddy, president of D. F. Eaddy & Associates, Inc., a black-owned business in Fairbanks.

Ordinarily, most of the black businesses in Fairbanks receive the type of discrimination and economic sanctions that would make Iran appear like the care head for the world. There is cohesiveness among bankers in Fairbanks that extends businessmen 25 to 50 percent less than the requested amount, and enough to get his neck in the noose, and then they cut his credit off cold. I am currently working on my fifth bank.

Because of my frequent public speeches about some unethical practices, such as a breach of ongoing relationships and confidential information over cocktails——

Mr. MITCHELL. What is the product of D. F. Eaddy & Associates?

Mr. EADDY. We are in transportation, supplies and services, and food services.

We are the current contractors for the Wainwright Shelter business contract. We are exposed to the type of discrimination that is just foreign to me. I would think that banks would be in competition, but they usually have a meeting every Monday and decide who will get loans and who will not get loans at any of the banks, even though these are separate institutions.

Mr. MITCHELL. I have to interrupt. These are five separate, disparite, autonomous banks?

Mr. EADDY. Yes, sir.

Mr. MITCHELL. Their managements meet every Monday?

Mr. EADDY. Every Monday at the Traveller's Inn in Fairbanks.

Mr. MITCHELL. What is determined at those meetings?

Mr. EADDY. I made an application for a loan at Alaska State Bank, and I was on my way to making an interest payment at NBA bank—the same one he was mentioning. Before I could get in the door, the bank officer was asking me how was my loan coming at Alaska State Bank.

Mr. MITCHELL. How do you have direct knowledge of these bank meetings?

Mr. EADDY. I was friendly with one bank's lawyer, and that killed my reputation with the rest of the banks, even though I was talking over cocktails. Apparently one of the vice presidents of First National Bank of Fairbanks gave a lawyer my account number, and my account name, but he forgot to mention that it was a corporation account, and a levy was attempted to seize the funds in the corporation account, and I went to court and they had to return the funds to me, and that killed my relationship with that bank.

Mr. MITCHELL. Forgive me for probing like this. I also serve on the House Banking, Finance and Urban Affairs Committee.

Do you have direct knowledge that these banks meet to make determinations on loans in a joint fashion, even though they are separate entities? You say you have direct knowledge of that, and I want to know how did you get that information?

Mr. EADDY. The lawyer was so ticked with me, he revealed this information to me along with the vice president of the First National Bank of Fairbanks.

Mr. MITCHELL. What is that lawyer's name?

Mr. EADDY. Paul Barrett.

Mr. MITCHELL. He is an attorney for whom?

Mr. EADDY. Household Finance and First National Bank of Fairbanks.

Mr. MITCHELL. I want to ask counsel, it is my experience on the House Banking Committee, and under Congressman Fernand St Germain's Committee on Lending Institutions, determinations of that sort violate the banking laws, is that correct?

Mr. EADDY. I have such direct knowledge, and not only that, I am afraid if Fluor were to release a gasoline contract today to any black contractor in Fairbanks of a size over $50,000, I am afraid he wouldn't be able to mobilize. There is a conspiracy between the bankers in Fairbanks.

Mr. MITCHELL. If Fluor said, OK, we are going to give XYZ minority business contracts in the amount of $50,000 or more, and along with that, you would need to get some money from the bank, you are saying it would not be forthcoming from any of the five banks in Fairbanks?

Mr. EADDY. Nor the SBA.

Mr. MITCHELL. This is the wrong way to proceed, but this is fascinating to me. I am wearing two or three hats, Small Business and the Joint Economic Committee also.

How does SBA tie in with this? I am going to call it an operational or gentleman's agreement. How does SBA tie into it?

Mr. EADDY. SBA and my chief proponent that has been giving me problems, formerly a banker in Fairbanks, he used past relationships to gain whatever advantage over minority businessmen that he can.

Mr. MITCHELL. What is his name?

Mr. EADDY. Frank Cox.

Mr. MITCHELL. With what bank was he?

Mr. EADDY. I am not sure, the field office in Fairbanks. He is also a former banker.

Mr. MITCHELL. Are we running an SBA or bank subsidiaries up here?

Mr. EADDY. The relationship would appear to be subsidiary, but by statute and the bank charter, I am still confused as to what it is.

Mr. MITCHELL. Anyone else in SBA that you know of who comes out of a background of banking? You have given me Mr. Cox.

Mr. EADDY. Bud Carter, Fairbanks field officer.

Mr. MITCHELL. What is his background?

Mr. EADDY. Primarily banking, but he is occupying an SBA office.

Mr. MITCHELL. Do you know with what bank he was associated?

Mr. EADDY. I think it was First National Bank of Fairbanks also.

Mr. MITCHELL. This is amazing. OK, I won't press you any further on this.

I do think that Congressman St Germain's committee needs to take a look at the lending institutions. It is a very strange kind of arrangement you have that close a personal tie between the Federal agency—that is the SBA—and the lending institutions.

Mr. EADDY. It is much closer than that.

Mr. MITCHELL. Maybe I better not hear how much closer it is. Go right ahead.

Mr. EADDY. They interchange personnel. They interchange intelligence.

Mr. MITCHELL. What do you mean, they interchange personnel?

Mr. EADDY. The manager of the real estate department—not as a transfer but as a new job, will leave NBA and go to another bank, and I have had on occasions this year to apply for a home loan, and it was denied without the paperwork even being submitted.

Mr. MITCHELL. You are talking about personnel transfers between banks?

Mr. EADDY. And bringing files from one bank to the other.

Mr. MITCHELL. Right now I am curious about personnel transfers between banks and Federal agencies, namely the SBA. Do you have any knowledge about that?

Mr. EADDY. No, sir.

Mr. MITCHELL. One last question. Do you have any knowledge about any person who worked for the SBA, came from a bank, worked for SBA and then left SBA to go back to a bank?

Mr. EADDY. Yes, sir. If he was not working there, he was certainly allowed the latitude that I would be denied were I not a bank employee.

Mr. MITCHELL. Who is that person?

Mr. EADDY. I think his name is Mr. Pearson of the field office. I have to check my records to insure that is his name. He is formerly with SBA, and he has gone through files in a bank as recently as yesterday.

Mr. MITCHELL. Check your records and then, go ahead with your testimony.

Mr. EADDY. For all practical purposes, and from my experiences in Fairbanks, black businessmen have become a new minority. I feel we are new in a sense and not afforded the same protection, consideration and the same opportunity to compete on contracts at the local, State, or Federal levels.

Ordinarily, minorities are exposed to this type of treatment at the local level, because Fairbanks, unlike many areas, does not have adequate controls to insure that affirmative action mandates are being complied with and Federal projects are not properly monitored at the local borough and State level.

I recall the Federal Energy Commission denying a permit to build a gas processing plant in Fairbanks, and the reason I recall that is Fairbanks has a severe social problem, and that was putting it mildly. Any time a city has a procurement system whereby the contracts are awarded at the sole discretion of the purchasing officer, some of which are not open to the public and where Federal funds are being spent, then I feel that they certainly have social problems.

At the borough level, none of the bids are opened publicly. You will receive a note saying you did not get the bid, it was awarded to another company and no abstracts provided after that.

At the State level it seems as if only legislators have the privilege of awarding surefooted contracts, and I make reference to a news article in the All Alaska Weekly two Saturdays ago. Alaska Natives receive a little more consideration because of the Alaska Native Claim Act settlement.

Mr. MITCHELL. The city and other local levels, there is no open competitive bid process?

Mr. EADDY. I have been on both bidders lists for 3 years now and never received solicitation, and always been required to visit their office and monitor their board to see what procurement opportunities were open, and I have on many occasions, wrote the name of a company that would be awarded a contract and have a friend or associate open to that, bid open, because it is predetermined who would get the contracts. I have done this at least 8 times this year and 25 times last year.

Thirty million dollars, no blacks have gotten supply contracts with the city of Fairbanks. Out of $22 million, I am the only black supplier in Fairbanks, to my knowledge, and I have two cases currently pending with the State human rights commission against the University of Alaska because I was told by the purchasing office that they are a separate entity and would not follow the State mandates unless they chose to do so, that they had their own fire department, their own police department, and they would do what they damn well pleased. I was the low bidder on five occasions and therefore awarded a contract.

Mr. MITCHELL. Forgive me, I have heard some strange things, but this is one of the most strange. This is the university itself?

Mr. EADDY. The University of Alaska.

Mr. MITCHELL. Which says it is not bound by any State law?

Mr. EADDY. Right, sir.

Mr. MITCHELL. With reference to what?

Mr. EADDY. Bidders' grievances, aware of contracts, the administration of contracts, and retrieving information about how many dollars went where, especially as regards to Federal funds.

Mr. MITCHELL. This is a separate political enclave?

Mr. EADDY. It is, but it is considered a prime defense contractor because of the Naval Reserve Lab at Point Barrow. The university is the component for that contract, and that is the basis that I made the complaint that I was being discriminated against on contracts.

Mr. MITCHELL. OK.

Mr. EADDY. GSA, my first approach in obtaining a Federal contract, I understand GSA was the largest agency, and I traveled to this very building to inquire about the possibility of doing business with GSA and was pushed down in the very hallway of GSA by the head GSA Director in Alaska.

Mr. MITCHELL. You mean pushed by words?

Mr. EADDY. No, sir; pushed by hand down on the floor.

Mr. MITCHELL. Mr. Eaddy, what date did that occur?

Mr. EADDY. It occurred during 1978. I have the exact date in a statement at home.

Mr. MITCHELL. I will need that statement. This was the head of GSA?

Mr. EADDY. In Alaska. I think his name is Mr. Delamader or Delamater.

Mr. MITCHELL. And you came, did you have an appointment with him?

Mr. EADDY. I called for an appointment and met my appointment at 12 o'clock and he said he was on his way to lunch downstairs, that I would identify him by a blue suit and so I proceeded downstairs and saw him in the hallway. I had my business card out, and my briefcase in my hand and said, "Mr. Delamater, my name is Charles Eaddy, I would like to do business with the GSA."

He pushed me down and said, "I don't care who you are, I don't have time to fool with you."

I went across the street to the police department, and made a complaint and also called his supervisor at the GSA facility in Auburn, Wash., and the policeman brought me back in the Federal building here to talk to the Federal protector, or policemen in the building, and I later learned, Mr. Delamater and his superior, they used some type of gestapo tactics.

Mr. MITCHELL. Did you use profanity, threaten him?

Mr. EADDY. I did not.

Mr. MITCHELL. Were you much bigger than he was?

Mr. EADDY. No, sir, I was smaller, in fact.

Mr. MITCHELL. Was there something that you said?

Mr. EADDY. Threatening to do business with GSA.

Mr. MITCHELL. All right.

Mr. EADDY. My next encounter was with the Bureau of Land Management here. A careful check will reveal that no supply contracts were awarded to black-owned businesses during 1979 with special regard to the Fairbanks area office located on Fort Wainwright. A further check will reveal the purchasing area office at Fort Wainwright the officer not only had no idea of Public Law 95-507, but she is not knowledgeable of and is insensitive to the plight of minority businesses.

She also refuses to do business with blacks specifically. When I asked her what was her reference for locating black contractors, she said they had a directory out on them. I presume they had a copy of the MBE directory or something and showed me a publication printed by a white company in New York, and I could identify two minority firms out of the entire book.

The minority business coordinator of the Anchorage office here in BLM is not familiar with Public Law 95-507 and claims general ignorance about its meaning, and often wonders if Alaska is excluded from its application. I had a conversation with him about 10 days ago.

Mr. MITCHELL. This is the person who is the coordinator of BME activities in Anchorage?

Mr. EADDY. Yes, sir, for BLM.

Mr. MITCHELL. For the Bureau of Land Management?

Mr. EADDY. Yes.

Mr. MITCHELL. His name?

Mr. EADDY. I have his base card.

Mr. MITCHELL. I will need that. And this person advised you that they had no knowledge of Public Law 95-507?

Mr. EADDY. Right.

Mr. MITCHELL. What did you say when you made reference to Alaska being excluded from it.

Mr. EADDY. He was wondering if Alaska, because of the distance from the lower continental States, applied to Alaska and I assured him that it would, but he still had doubts.

Mr. MITCHELL. Go ahead.

Mr. EADDY. My next encounter was with the U.S. Air Force. Mr. George Taylor and myself, were the low bidder on the $146,000 moving and dredging contracts on Eielson Air Force Base. We were told by the Air Force before bid opening, by the submission of our bid, they would have no questions about licensing and permits from the State agency, but when it was determined that we were the obviously low bidder, they asked for our ATC permit from the State of Alaska and so in a desperate attempt to get an ATC permit—and they said we can't give you a permit until you get a contract and the Air Force said we can't give you the contract until you get your permit.

We filed our application anyway, and every trucker who was a title holder for ATC came in to protest, and they were using the same lawyer. They were sharing the same facility and had joint management, and the way I read that was that is an antitrust violation. I made a complaint about small business size, and also about antitrust activity itself. They ruled in favor of the ATC.

We were denied a permit and subsequently, 2 days after getting out of the Army, I was without a job, I had intended on that contract to work. I was supposed to have gotten $4,700 in January 1979. I have received $400. I went into business with $4,400 in Alaska, and I applied for my 8(a) certification and SBA indicated that my projections were unrealistic. I projected gross sales of $69,000 for the year.

My application was denied. It wasn't returned to me right away, but my gross sales was approximately $390,000 at the end of that year. SBA suggested if I were to go into the janitorial business, maybe some contracts would be forthcoming.

Mr. MITCHELL. Who in SBA suggested that to you?

Mr. EADDY. Dave Yancey. When I refused, I was then told that my sales projections were unrealistic. When I exceeded those projections, then I was told that SBA could not provide me with the technical and management assistance to make my business successful.

Mr. MITCHELL. You didn't need it then?

Mr. EADDY. No, sir; I have since applied for reconsideration. My application has been in the hopper for a little better than 2 years now, and I got a statement from government agencies, and from organizations that are sponsored by the Department of Commerce indicating that proper technical and managerial assistance would be made available to me.

I still have no hopes that my 8(a) application would be approved, because when I called the Washington, D.C. office to check on my application, I was told by a receptionist who identified herself as Mrs. Bernice Griffin, I heard her say this blankety blank is back

on the phone. I apprised her that I heard her comments. She did not deny stating this and all of a sudden, she became very positive. She called Seattle, Anchorage, and Fairbanks, and located my application, but she refused to let me speak to her immediate supervisor so I could relate what had transpired.

Mr. MITCHELL. Her name is what?

Mr. EADDY. Bernice Griffin.

I contacted the regional office of U.S. Army Troop Support Agency, and they assured me if my 8(a) application was approved, I would stand a good chance of receiving a $1.5 million contract. I have no hopes that my 8(a) application will be approved, but for whatever reasons, I have answered the areas in which they said they base my rejection, and if my application is not approved, then it will confirm in my mind that SBA is a sham here, and they are not following proper procedures as indicated by all of the references SBA sent to me every time I make inquiries.

Mr. MITCHELL. It is imperative that you reduce your testimony to writing and get it to me. This is the most incredible testimony that I heard so far today.

Mr. EADDY. I was amazed, because I usually come to Anchorage for a little rest and recuperation after things get a little hot in Fairbanks.

Mr. MITCHELL. Why do you try to stay in business?

Mr. EADDY. I was in the Army for 14½ years, and I felt my talents were being wasted. I am currently in a master of business administration program at the university. I know that I have a marketable skill and if given the opportunity, I can succeed.

Mr. MITCHELL. Why do you stay here if this has been your experience in Fairbanks and other places?

Mr. EADDY. Well, Alaska, this has been my experience only in Alaska.

Mr. MITCHELL. This is your home?

Mr. EADDY. No, sir; it is not. I came here with the military, and I have been afforded some type of protection from some of the overt discrimination that I faced since I have been discharged.

Mr. MITCHELL. When do you think you will have your written testimony?

Mr. EADDY. Tomorrow morning without fail, sir.

Mr. MITCHELL. I ask you these last questions, and that is probably not a very fair thing for me to have done. I have to be careful what I say, because it is all going in the record, but I guess I would probably be in prison someplace by now.

OK, thank you very much. Get your testimony to me. I know you have to leave to go back to Fairbanks.

Mr. Taylor, it was not the witness' fault that you were delayed, it was mine.

TESTIMONY OF ROBERT TAYLOR, CYPREE CONSTRUCTION

Mr. TAYLOR. My name is Robert Taylor. I live in Fairbanks. I don't have very much to say, because Mr. Ratcliff and Mr. Eaddy just about said everything I was going to have to say, but I can say this:

I am a general contractor, and I do have a number of jobs at the time, but other than that, I will make mine short. I have had

problems, and I still have them as a black contractor, put it that way. As a black contractor, I specialize in cement. In other words, I specialize in concrete. I think that is what has kept me going because that is my trade, and it is a trade and I know it.

At that time—since then, I have become 8(a) set-aside as an (a) contractor. I was certified in October 1979. I don't know why, but it did come through. I don't know why it takes the others so long. Mine came through within 6 months.

Mr. MITCHELL. Well, that is not very fast, 6 months after you applied.

Mr. TAYLOR. Two years.

Mr. MITCHELL. OK.

Mr. TAYLOR. Just before the set-aside, I was doing a lot of concrete work, making $160,000 and at that time I was dealing with a bank. I had a line of credit with a bank and then I did have some bonds, probably $800,000. Every job I put in a bid I got the bonding for it. As it is, I started stepping on some of the bigger contractors toes, so my bank cut me loose, wouldn't give me a line of credit.

Mr. MITCHELL. On your bank loans, your bank line of credit, were you up to date in your payments?

Mr. TAYLOR. That was the problem, I had them all paid off.

Mr. MITCHELL. You had a line of credit in what total dollar volume?

Mr. TAYLOR. At that time, all I needed was $70,000 a year.

Mr. MITCHELL. Had anyone pointed to you, you ever used $70,000 in 1 year?

Mr. TAYLOR. No.

Mr. MITCHELL. What is the most?

Mr. TAYLOR. $50,000.

Mr. MITCHELL. You paid that off?

Mr. TAYLOR. Yes.

Mr. MITCHELL. Have you had other lines of credit prior to that $50,000 through the bank?

Mr. TAYLOR. Well, no.

Mr. MITCHELL. No; before that $50,000 was the only time that you used it?

Mr. TAYLOR. Yes.

Mr. MITCHELL. That was paid off promptly?

Mr. TAYLOR. Yes.

Mr. MITCHELL. What was the reason given you for denying you a further line of credit?

Mr. TAYLOR. I started bidding jobs. A small concrete job came up, $40, $50,000. I could get the bid and I knew some of the contractors I was dealing with as a sub.

Mr. MITCHELL. What was the reason that that bank gave you? I am sure they didn't tell you your competitors have come in and told us to cut you off?

Mr. TAYLOR. I can go back to somewhere, I was involved in a nightclub which is a private club, and I borrowed money for the club, the money wasn't paid back properly like it should have been.

Mr. MITCHELL. On the nightclub, but on your concrete cement business, that was always paid promptly?

Mr. TAYLOR. Yes.

Mr. MITCHELL. OK.

Mr. TAYLOR. And the bank told me, you are dealing with this nightclub, and this bill is behind, and it should be paid off.

I said, "Don't take that out on me. That is personal. Business is different. Don't look at the nightclub business and put both of them together," and he did it.

Mr. MITCHELL. OK.

Mr. TAYLOR. Since I have been 8(a), I guess I got, I don't know, I can't say too much about 8(a), SBA, but I don't know what problems I will be running into from here on in. They have been treating me pretty good. I had about a half million dollars worth of work from them.

Mr. MITCHELL. After you got 8(a) certified, you got as much as a half a million dollars worth of work?

Mr. TAYLOR. Yes; and what really did me, I had one project for $129,000, and at the time I had a bond for the contract but it was here and at the time I had to be certified for my overhead, and SBA asked me could I get bonded. I said, yes. At the time, we were going through the process of getting certified for my overhead, the Army took so long to be certified, the bonding company called me and canceled my bond.

Mr. MITCHELL. How long did it take you to go through this process with the Army, sir?

Mr. TAYLOR. Yes.

Mr. MITCHELL. How long did that take?

Mr. TAYLOR. Sixty days.

Mr. MITCHELL. And during that time, the bonding company said it was just too long?

Mr. TAYLOR. The broker told me they didn't usually hold it more than 15 days. Since that time, I have been having problems, no more bonding, and I also lost a contract. I had to go get another contract to do it. SBA said they lose——

Mr. MITCHELL. I didn't hear you.

Mr. TAYLOR. The SBA said they would lose their bidder. I had to almost give up everything in order to do the contract. I had to give it all up to another general contractor.

Mr. MITCHELL. Did you make any profit on the contract?

Mr. TAYLOR. It won't be done until sometime in September, putting in windows out at Fort Wainwright.

Mr. MITCHELL. Did the SBA ever discuss its potential to waive bonding requirements on certain jobs?

Mr. TAYLOR. I started to pay for it. I wrote letters and asked them. They refused.

Mr. MITCHELL. Did they give you any reason why they would not use the authority given to them under the law to waive bonding under certain circumstances?

Mr. TAYLOR. They said they couldn't.

Mr. MITCHELL. Talk louder.

Mr. TAYLOR. Under some law they couldn't waive the bond. I showed them a piece of paper, I sent them a copy of a letter.

Mr. MITCHELL. I have no further questions. I would appreciate it if you would reduce to writing, and if you can't get a typist, write out in long hand, we will find the means of getting it typed and put in shape for you.

I want to move right along, and I am going to be asking this same question of the rest of the witnesses who come here. We have hard testimony going back to the date of 1967, which referred to intransigence and recalcitrance on the part of SBA here in Alaska. From 1967 up to the present, the most recent testimony that we heard dealt with yesterday. What is so strange about the SBA operation here that makes it appear in the minds of the witnesses who have testified so far today that it is totally insensitive, and inconsiderate about minority businesses? What special things go on in Alaska that would cause that?

We have problems with other SBA offices. There is no question about that, but in general when the problems are brought to the attention of the proper people, the agencies begin to shape up. Here you have, what is this, a 13-year history of what appears to be resistance. Why? What is there about the politics or the climate, or the lay of the land that causes SBA to be so strange up here?

Mr. RATCLIFF. I would like to try to answer that.

Mr. MITCHELL. I wish you would.

Mr. RATCLIFF. One thing you have to look at in Alaska, there is less than a half a million people here so you get known very quickly. And Alaskan economy has been up and down, not very stable, so you don't want an economy to fall. Who gets it? Everybody knows everybody practically when it comes down to it. If you lived in a city of 400,000 people for years and years and if you do anything, you get known, and they seem to be actually afraid of black competition.

I have told here that people are just, I mean Alaskans are really afraid of competitiveness, especially by blacks.

Mr. MITCHELL. OK, be that as it may, Mr. Ratcliff, in the private sector that may well be true and I can perhaps understand it. What businessman wants to see a competitor, so that is being quite candid with you.

This is an agency of government.

[Answer not in the record.]

Mr. MITCHELL. Thank you very much.

Is Mr. Schenderline from Skyline Electric, Mr. Andrews from HUB City Construction?

Mr. Andrews, come up, please.

Mr. J. P. Jones.

Mr. Ellis Murray, Drywall and Painting.

Mr. Jesse Griffith.

Mr. John Belard.

Mr. Cleveland arrived yet?

We will conclude these hearings by no later than 4:30 today.

Of all the names that I called, do we have any other persons here? If not—yes, sir.

Mr. LOCKHART. Parnell Lockhart, PGA.

Mr. MITCHELL. Good, come right up, please.

Mr. BIERRIA. Al Bierria, A. & J. Construction. We were on the mailing list.

Mr. MITCHELL. Come up.

Before we hear from the witnesses, are there other people who want to testify?

Ms. KISER. Ms. Kiser, with ORKA Contractors.

Mr. GARCIA. Garcia.
Mr. MITCHELL. The name of your company?
Mr. GARCIA. Hairstyles.
Mr. MITCHELL. Your name?
Mr. SWANSON. Donald Swanson, the A Corp.
Mr. PLEASANT. Phil Pleasant from Pyrote & Pyrote.
Mr. WILLIAMS. Henry Williams.
Mr. MITCHELL. I can't guarantee you that we will get to all of you. I will suggest this to you now, that those who indicated that they wanted to testify, I know most of you have not prepared a written statement. It will be meaningless unless we get written testimony submitted to my office. It will not help us at all merely to have a transcription of this record. I would suggest if you want to testify, that you make arrangements to have your testimony reduced to writing.

I called three names earlier, did I not?

PANEL CONSISTING OF: EVERETT ANDREWS, HUB CITY CONSTRUCTION; ALBERT J. BIERRIA, JR., GENERAL MANAGER, A. & J. CONSTRUCTORS CO.; PARNELL LOCKHART, PGA, INC.

TESTIMONY OF EVERETT ANDREWS, HUB CITY CONSTRUCTION

Mr. ANDREWS. Everett Andrews, HUB City Construction in Fairbanks, a minority firm owned entirely by myself.

Mr. Mitchell, at this point, I am prepared with a written statement. I can in brief let you know some of the problems that I have had, and then if possible, when I get back to Fairbanks—because of the nature of my business for the last 2 weeks, I have been more or less tied up and I couldn't get to a written statement, but I could prepare one and send it on to Washington to your office.

Mr. MITCHELL. I would appreciate it if you would prepare a written statement. Meanwhile, we will take your verbal statement.

Mr. ANDREWS. When I started off in, I believe it was the latter part of 1976, December 1976, I spent a lot of time and effort and money trying to open doors to establish my firm, HUB City Construction, and also get certified as an 8(a) contractor.

I have studied labor law, self-taught, been a business agent for 13 years. Out of my career I have two separate crafts and sat on the fencepost as a business representative for unions understanding labor and management problems. I have sat on pension trust boards, and been in the industry for 20 years, and am now a contractor and owner of a firm.

Most of my experience has come out of the field, even as a business representative. I learned my business the hard way, more or less coming up and being self-taught in whatever line of business that I was in at the time.

When I encountered this 8(a) certification as a minority firm, it took me over a year and a half to get certified. The problems that were told to me was that I got caught up in a law change. What law change? Quite naturally I could refer to the SBA and they could get the particulars on the law changes that I was caught up in, but nevertheless, it took a year and a half to get certified and once——

Mr. MITCHELL. Are you now certified?

Mr. ANDREWS. Yes. Once upon certification, then my question to them was, you know, I didn't expect the SBA or anyone else to hand me a contractor or money or whatever. I have worked hard in my lifetime and got things around me to show for my efforts. I asked them questions, what were they going to do for me?

Well, assist you in business managementwise, financewise, technical assistance, whatever.

I find that is not so. As I am going along in my business, quite naturally I have received a few contracts through the SBA to negotiate. These contracts that I have received in the last year have been very tough contracts. The nature of the contracts—we have completed them all in find fashion—there has been a high risk involved in them because of the nature of the jobs and the fact of short notice on these projects.

In most cases, dealing with a Federal agency, Corps of Engineers, or say the FAA, you are dealing in an area where you are sitting down—and you hear a lot these days about minority firms having their hand out and getting, you know, the money without doing anything. That is not true. There are some maybe possibly in this room and throughout the country that have had big fat contracts without doing anything for them. I find that is not the case. It is tougher to bid as a minority firm than to bid on the street as a regular contractor.

First of all, I ask you the question, what would it take to set up a business in—just off the top of your head what would it take would you say to set up a construction firm nowadays?

Could you answer that for me? What would it take just off the top of your head to set up a business?

Mr. MITCHELL. Minimal amount of money for a construction firm, absolutely rock bottom, $150,000 minimal where you do very, very small contracts.

Mr. ANDREWS. And I started off with virtually nothing. What I have built around me—I have got a two-store complex in Fairbanks setting on 2½ acres. I have got a shop going up, the building is worth $400,000, a total of $600,000 that cannot turn a dime into bonding, not a dime.

Banks up there will not even sign contracts that I have had. The banks have told me go elsewhere. I have dealt with every bank in Fairbanks. What I can see to establish my business is this:

I have to first continue to do what I have been doing, working with my hands and I can't hire a secretary. I have got an engineer on staff, and he does not receive any payment unless he can produce something, then he receives money.

Mr. MITCHELL. Why would the banks refuse to do business with you?

Mr. ANDREWS. The banks say they prefer to deal with preferred customers.

Mr. MITCHELL. Do you think it is because you are a minority?

Mr. ANDREWS. I can't make that statement, sir.

Mr. MITCHELL. What is your ethnic background?

Mr. ANDREWS. I am what they call a halfbreed. I don't want to go into it. I can sit here and give you a whole page of my background.

Mr. MITCHELL. I don't want to ask any questions that would be embarrassing to you, but I was trying to get to the point as to

whether or not these banks identified you as a minority as they did Mr. Eaddy, for an example?

Mr. ANDREWS. Mr. Eaddy and I have similar problems. The gentlemen at these different banks haven't come right out and said, "Hey, you are a minority." If he had said that, at that point I would have taken action; but this is not the case with me. I have signed contracts with these people, and they have dug into my background. I have had to deal with the IRS, Department of Labor, and the FBI, which I don't think I have any problems with any of these agencies. The IRS is paid up; the FBI they don't bother me; the Department of Labor have knocked on my door and wanted statements from me because of the activities that I have built a building.

Mr. MITCHELL. May I interrupt your testimony? This has been really exceedingly difficult all day long, and I am trying to keep in a light frame of mind.

In connection with your business, what is the involvement of the FBI?

Mr. ANDREWS. Well, I don't know. Mr. Ratcliff, he just testified, he can also elaborate on some of these things. In Fairbanks, if the individual up there wants to put the finger on somebody, they will go as far as calling the FBI on it to investigate you.

Mr. MITCHELL. Did they approach you?

Mr. ANDREWS. At my door about 3 years ago.

Mr. MITCHELL. What if anything, transpired?

Mr. ANDREWS. Nothing.

Mr. MITCHELL. What questions did they ask you?

Mr. ANDREWS. I had an incident in San Francisco, you know, I got involved with two other guys, and I was more or less protecting my own life, and both of them got cut pretty bad in the shuffle. Of course, they had me for manslaughter, because both of the two individuals were laid up.

Mr. MITCHELL. This was not in connection with your business. Oh, I see.

Mr. ANDREWS. I never did any time on it. You know, I got completely off the charge because they found out I was trying to protect my own life.

Mr. MITCHELL. I was curious because you mentioned it, and I thought it was in connection with your business.

Mr. ANDREWS. These are the things that happen to a man and when I was building the building, the Department of Labor knocked at my doorstep. They thought I was taking money from the contractors, because I was a business agent building a two-story building, and I had to go through all kinds of changes there to solve that one.

As time went by, I became a contractor, and then I got into this 8(a) thing; and of course, it opens up a different area, you know, for a man. He is in a different area or walk of life, different part of industry, and the things start all over again. You are looking at certain cases. You are looking at being qualified through the SBA.

OK, the question I ask you, what would it take to set up a business? You said $150,000. I don't believe too many gentlemen in this room ever had $150,000 to start off their business. If they had $150,000, it sure would help. My business, the few contracts that I

have gotten from the SBA, quite naturally they have helped me financially somewhat, you know, what little we have got of the contracts to keep things going.

We set up a goal with the SBA and every 8(a) contractor has set up a goal with SBA. First year line of business, their support would be, say, $200,000; second year, $150,000; third year, $75,000, and by the fourth or fifth year, the minority firms should be standing upright on its own two feet with the support they get from the SBA.

I can understand some of the problems the SBA has in-house. They state—and I am sympathetic with them to a certain extent—they state we don't have the tools to work with, and that is the contracts. The agencies aren't giving them the contracts. In fact, they tell you to go knock on the agency's door, and you drum up the business, and we will try to get them to go along with it.

Mr. MITCHELL. That is a very interesting observation, and we are going to take that up with SBA tomorrow. We hear just the opposite. We hear from the agencies that we are turning over to SBA *x* number of contracts. You find the guys and the ladies to get the job done, and SBA is turning those contracts back, saying we can't find the people.

First of all, bonding, in the industry bonding is the key issue, and liquid cash is the key issue in construction firms, management firms. You stated here in this hearing that there are three firms that you have helped in the area, and now they are doing $15 million worth of business. How did you help them get a loan to establish their firms, to get off and running?

Mr. ANDREWS. We cannot get any money in this area because this area is suppressed.

Mr. MITCHELL. OK, your point may be well taken. I am attempting to rebut your testimony that the contracts are not there. We have testimony from an agency of government that will testify tomorrow saying the number of times they have come to the SBA in Alaska, saying find us the people to do these contracts, and their testimony will indicate that SBA has returned the contracts to them.

Mr. ANDREWS. That is not so. I beg these people to give me contracts. I have been down here this week asking for more work on Elmendorf Air Force Base. There is a $2 million contract on that base that I have been working on for a month. I have been asking them to set it aside. It is already a set-aside contract for small business, which indicates $12 million and under. I am saying set it aside for 8(a) contractors. I don't care if you set it aside for three or four 8(a) contractors.

There are a number of things in this contract, painting, maintenance, and they say, "hey, go talk to them. If they want to set it aside, we will talk to them."

I said, "Well, can you turn it around? Can you turn this contract around? It is on the street right now. Can you turn it around to 8(a)?"

They say, "No, we don't have that power."

Whether they are scared of politics—Senator Gravel is sitting here—whatever is going to scream blooding murder, because they have turned it around on the street and shoved it minority. This is

the indication I get. There is a lot of politics involved in this particular one. These bases have a lot of work for us. In order to get these contracts off of these bases, the Corps of Engineers, FAA, and all these other agencies that you and I are speaking of—first of all, what I understand they have to first be offered to the SBA and the SBA then has to offer them to us.

I am sitting for the last 3 years asking for contracts to be offered to me. The ones that have been offered to me have been very small contracts, and these contracts have a very short time to put them together, dead of winter, whatever, and we have produced and taken care of our end of it.

Mr. MITCHELL. Let me interrupt to make one other point. There have been many, many changes in the law. Not only can agencies turn over these proposed contracts to the Small Business Administration, the SBA is empowered by law to go into any Federal agency and say, "We want this contract set aside under the 8(a) program."

Is that generally correct, counsel?

Mr. CLARK. Generally.

Mr. ANDREWS. Let me go over to Elmendorf then and flex their muscles. I have asked them a month ago, there have been several times. I found out about one contract in Fort Richardson, and I called them up. I said, "There is going to be a contract coming out."

They said, "We haven't received it yet."

I said, "There is a small window job that is coming up. I am interested in it."

I have got to struggle with my brother contractors, and I refuse to do that, and I know very well there has been insinuations, you know, one can see underneath, you know—"hey, we gave it to so and so."

"Why did you give it to them?"

"Because, this is our reason, we decided where the contract goes."

I don't know if I could bid against another minority. Is it possible? I ask that question. Is it possible if there was 10 contracts here, and 100 minority contractors sitting back there, who decides where these 10 contracts should go? Am I able to bid against my brothers sitting here and him being able to bid against me on these 10 contracts, is that possible through the SBA system of things?

Mr. MITCHELL. It should be.

Mr. ANDREWS. I feel it should be. If we are all standing here waiting in line for contracts, then my question I ask—and you know I have been corresponding with Senator Stevens. I recently received "Contracts Awarded, Small Business Contracts Awarded Annual Report, 1974." It is ridiculous, because I see no Fairbanks people here. I see a few Anchorge people.

I asked the SBA people, give me a list of contracts that have been awarded through the SBA in the last 5 years, the amounts and who to. They say it is confidential information. I am a taxpayer. Why should it be confidential information?

They say we can't supply that to you. I want to know what I am doing wrong as a contracting firm. I have got to have liquid cash, and I have got to have bonding. I have got to have certain tools to

work with in order for me to go out there and tackle these $200,000 jobs, I have got to have the bonding, and those things.

If I continue the course that I am going along with my particular firm, and in other words, whatever dollar I get, I stick it back here in a safe deposit box and finally I got $200 to $300,000 worth of CD's sitting here for my bonding. That money belongs to me, as I have saved it, and I got a piece of equipment here and scratch around and say what do I need SBA for?

You tell me you don't need us, and we supply a contract to you is what I am getting at. What assistance is the SBA? What assistance? They assist me in the line of getting me a contract? The Federal Government has paid for management and financial firms that come from San Francisco that come to Fairbanks and want to sit down and have a cup of tea with me, and tell me how to manage a firm.

I say, "Manage what?" I got to have contracts and work to be a manager. These people are spending $200,000 for you to come up in your fine herringbone suit to tell me how to have——

Mr. MITCHELL. Do you have exact knowledge that $200,000 was spent?

Mr. ANDREWS. One hundred and fifty.

Mr. MITCHELL. Who at SBA told you that they could not provide you with a list of contracts that have been let in the Fairbanks-Anchorage area over the last year?

Mr. ANDREWS. I don't want to say. Mr. Yancey, or Mr. Allen, Mr. Andreoloa, one of the three.

Mr. MITCHELL. One of the top management?

Mr. ANDREWS. We will put them all in a room and we will get it out of them.

Mr. MITCHELL. No; we won't. We don't do it that way.

The reason they told you that this could not be given to you is because it was confidential information?

Mr. ANDREWS. Yes.

Mr. MITCHELL. Counsel, clarify a point. Did you advise me that that list is published in the Wall Street Journal?

Mr. CLARK. Most agencies do publish contracts that they let to private industry.

Mr. MITCHELL. That is published in the Journal and other records.

Mr. ANDREWS. It shouldn't be any problem to run off a list for me, and that is why I went to Senator Stevens to see if I could acquire a list.

Mr. MITCHELL. You got that list from him?

Mr. ANDREWS. He sent me the annual report for 1974, and that is all he could get up at that time. Whether or not they have problems getting their information, I don't know. They definitely have problems up here.

Mr. MITCHELL. Thank you very much.

TESTIMONY OF PARNELL LOCKHART, PGA, INC.

Mr. LOCKHART. I am Parnell Lockhart from PGA, and I don't have a written statement. At the moment, my daughter has been working with me——

Mr. MITCHELL. Pull your mike just a little closer.

Mr. LOCKHART. I have been in Alaska since doomsday. Mine would probably be a month of Sundays since I kind of grew up in Alaska and had PGA in existance since 1964.

Mr. MITCHELL. What is that?

Mr. LOCKHART. General construction company, and I have been 8(a) certified since about 1972.

Mr. MITCHELL. OK.

Mr. LOCKHART. Prior to that, I did small jobs, and I did quite a bit of—in fact, I have been kind of a guinea pig for SBA. When it started out, they drove me into places where there was no money in the job, but Parnell will do it. I got a good track record. I have been bonded up until a few years ago.

Mr. Ratcliff mentioned a fellow, Jim Brown. I don't think any blacks ever did anything with the Small Business Administration since his death. In 1974, 1975, 1976, I could get bonding, and now I can't.

Mr. MITCHELL. Mr. Lockhart, again, that is a very serious statement that you are making, and I am not challenging the validity of it, but I want to try to understand what you are saying. Mr. Jim Brown now deceased, was with SBA?

Mr. LOCKHART. Right.

Mr. MITCHELL. During his time in office, blacks were able to get contracts through SBA?

Mr. LOCKHART. Those that was qualified 8(a) certified.

Mr. MITCHELL. OK, those who were qualified under 8(a) were able to get contracts.

Mr. LOCKHART. There is a gentleman in the room here, he is one of the original 8(a) contractors.

Mr. MITCHELL. We will get to that in a minute.

You made another statement which I want to make sure that I am understanding correctly, that since Mr. Brown left the SBA, it has been—I am using the word "difficult" for a black to get a contract under 8(a).

Mr. LOCKHART. For a black to get contracts under 8(a) to make any kind of money type situation. Since then they have had contract officers in the SBA here and looked at my financial statement and made the statement to me, "If I had a financial statement like this, I wouldn't even be in the program. What are you doing here?"

I made the statement back, "Was there a number for niggers to have?"

Since then, my bonding has went to hell. This is since 1977.

Mr. MITCHELL. You were certified in 1972. You managed to continue to get contracts from 1972 under your 8(a) certification. You managed to get the contracts, and some you could make money on, and some you broke even on up until what time?

Mr. LOCKHART. His leaving the Small Business Administration.

Mr. MITCHELL. That was in 1976?

Mr. LOCKHART. 1977, I think it was.

Mr. MITCHELL. All right. Could you give me a rough guess from the top of your head, as to how many contracts you got as an 8(a) certified contractor during the perod 1971 to 1977, the total number?

Mr. LOCKHART. Oh, I would say offhand, it would be somewhere in the number of 12 or 13.

Mr. MITCHELL. Could you give me an estimate as to the number of contracts you have gotten during the period 1977 to the present as an 8(a) certified contractor?

Mr. LOCKHART. Approximately five to seven, off the top of my head. They have been under the $23,000 mark.

Mr. MITCHELL. In other words, since 1977, the number of contracts that you have received has been about one-half of the number of contracts that you received from 1972 to 1977, is that correct?

Mr. LOCKHART. Correct.

Mr. MITCHELL. Talk to me roughly in terms of dollar volume. Give me a rough idea what that 12 to 13 contracts from 1972 to 1977 netted out in a dollar figure?

Mr. LOCKHART. From $69,000 to $149,000.

Mr. MITCHELL. $69,000 to $149,000.

Using that same guide from 1977 to the present, give me a round guesstimate as to the dollar volume of those contracts, the five to seven that you received or arranged?

Mr. LOCKHART. Not more than $250 total.

Mr. MITCHELL. Total was $250?

Mr. LOCKHART. Total.

Mr. MITCHELL. What was the lowest one?

Mr. LOCKHART. $14,000.

Mr. MITCHELL. As compared with a low of $69,000?

Mr. LOCKHART. Yes.

Mr. MITCHELL. What was the highest?

Mr. LOCKHART. $149.

Mr. MITCHELL. That is the maximum you got prior to 1977?

Mr. LOCKHART. Right. In fact, I have been in here all morning listening to other 8(a) contractors to talk about bonding. Mr. Brown made the statement to me when he first came to Alaska, he called me up. He says "I am up here in Alaska for two things, to help the minority contractors that want to help themselves, and do my job."

He said in that office there, I might as well tell you there are certain people that have their pick, and there has been mention to me that you was my pick, Charlie Blackford, and a guy up in Fairbanks, and he said everybody in that agency got their picks.

He said, "As long as you are in there, I will see you get some jobs and make some money." This did happen.

Mr. MITCHELL. When the volume of your contracts began to drop off, did you ask SBA as to why the volume of your contracts was beginning to be reduced?

Mr. LOCKHART. They said they didn't have any jobs, so if you don't keep your bond current, the bonding company says your record, you got to keep using it, so since I hadn't been able to use it, the bonding company said you have got to do this financial statement thing. Meanwhile, you sit there and don't get any work.

In fact, another little incident, after I got bonded, I actually did some jobs and I didn't have the bonding. We finished them during the time of 1972 to 1976, we did the jobs, and they said, "well, we can't pay you because you don't have your bonding." I started thinking, why did I get the go-ahead to do the job?

Mr. MITCHELL. Did you ever get paid for those?

Mr. LOCKHART. Oh, sure.

Mr. MITCHELL. Who told you that they couldn't pay you?

Mr. LOCKHART. A couple of the agencies that I did work for. The FAA for one, it was mentioned we can't pay you until we get a bond. They said, "Don't tell nobody about this." If you can't get a bond and somebody can pull some strings, and you get the notice to proceed on the job, then the law should be the law, shouldn't it?

Mr. MITCHELL. I am not at all sure that it should have been the law because it came out to your advantage.

Mr. LOCKHART. I am saying I did the jobs without a bond, so it shouldn't be too much problem for me on my record now to get a bond.

Mr. MITCHELL. My point is I can't understand the mentality that says, OK, the job is finished, it is complete, the building is or whatever had to be done has been done, but we can't pay you because you don't have a bond.

Mr. LOCKHART. Like I said, it is kind of like who you know and who are their favorites over there in SBA.

I haven't heard anybody use that word today. I have been here in Alaska for 26 years. In fact, I am making an attempt to get out of here. Me, myself, I feel that, you know, like you said, you get known, the Lockharts in Alaska in construction. You go someplace, hey, you that one so we got to keep you down if we can, so I figured I better get the heck out of here.

Mr. MITCHELL. Why? Why would they want to hold you down?

No. 1, nobody owns me. I got a loan from SBA and paid it back before the time. When I was going to pay it, don't pay the money back, keep it in the business. When I was trying to keep the business in shape, so I got the business in shape, and I don't owe anybody, and I got a few dollars so what am I supposed to do?

Mr. MITCHELL. I have lived a long time. I think if you are black and lived a sufficient number of years, you develop a kind of health paranoia, a healthy kind of mental illness. That happens to all of us.

Members of Congress are constantly telling me, you are finding racism where it doesn't exist. I am saying it does exist. I am really being quite serious. Do you honestly think that the word is out that you are to be denied contracts?

Mr. LOCKHART. Some word is out, because it was told to me that—I heard that—and up until then I was doing quite a bit of work for FAA, Transportation Department. I made the "Civil Rights Review" of 1976 for doing 8(a) contracts in Alaska, so I felt hey, that is pretty good. Since then, I guess I was on somebody's bad list or whatever.

Mr. MITCHELL. Why?

Mr. LOCKHART. Damn if you and I know.

Mr. MITCHELL. OK. I don't have any other questions.

Mr. LOCKHART. In fact, I didn't know SBA has the right to waive bonding. I had to ask that question, too. I heard it mentioned earlier, and somebody gave me some mumbo-jumbo, "well, no, that don't pertain here."

I was raised up through this 8(a) program since 1972. My brother was the first one that got an 8(a) contract in the State of Alaska, and he is on that bad list.

Mr. MITCHELL. Your brother?

Mr. LOCKHART. My brother Jimmy Lockhart.

Mr. MITCHELL. Is he in the same firm with you?

Mr. LOCKHART. No; he has his own.

Mr. MITCHELL. His experience was the same?

Mr. LOCKHART. His was a little worse, because he couldn't survive it, so I was a little lucky to survive this.

He is now out of business?

Mr. LOCKHART. In a sense but not. He still got a name.

Mr. MITCHELL. He was successful earlier?

Mr. LOCKHART. Right.

Mr. MITCHELL. I may use some terminology that certainly ethnic groups, it is a term called a shoe case, a shoe case kind of person. Generally, there is an ethnic terminology that goes behind a shoe case. Do you understand what I am talking about?

Mr. LOCKHART. Yes.

Mr. MITCHELL. Would you consider yourself a shoe case from 1972 to 1977?

Mr. LOCKHART. I wouldn't say I was a shoe case in the terminology. I was trying to do what I was taught was right, really.

Mr. MITCHELL. I mean in the sense that an agency could point with pride to you and say, "There is this man, and look how well he has done and he is setting an example for others to follow."

Mr. LOCKHART. At one time they probably could have. Not checking my records since then, you would ask them the question, what the hell has happened, is he still in business?

Mr. MITCHELL. You are no longer a shoe case?

Mr. LOCKHART. Yes.

Mr. MITCHELL. Thank you very much. Will you stick around a couple of minutes?

TESTIMONY OF ALBERT J. BIERRIA, JR., GENERAL MANAGER, A. & J. CONSTRUCTORS CO.

Mr. BIERRIA. My name is Albert Bierria with A. & J. Constructors Co., which is a new firm, more or less, under a year. We had a company prior to this that was called the Thrice Co.

Mr. MITCHELL. Called the what?

Mr. BIERRIA. Thrice. T-h-r-i-c-e.

Mr. MITCHELL. That was construction also?

Mr. BIERRIA. Yes; that was construction. Consequently, not being in business very long, we don't have that much to give testimony on, but what little I have, I will give you.

Our first contract that we bid on was an HUD project, and it was to survey a lot of villages throughout Alaska to rectify some of the mistakes or bring the buildings up to code, and you know, it was under a $250,000 contract.

Mr. MITCHELL. What year?

Mr. BIERRIA. 1979. Because we were a new contract—I knew we had expertise to handle this contract. I engaged some other minority firms to joint venture with us, and to touch all bases, even if we were low bidder, that we would have that experience up front and the longevity as an established company. So we joint ventured with not one, but four of us joint ventured on this small contract, and we put the proposal together.

We presented it, and we were one of the low bidders on this. It was about $185,000. The procedure of the bidding was to have the low bidders meet with a panel to decide if the company would be adequate to do the job. Now, in our proposal we stipulated experience, and how much work and the whole nine yards, and after it was read, we were not even invited, we were one of the low bidders and we were not even invited to sit on the panel to talk over the contract.

We protested. It was just ignored, and they gave it to one of their contractors that did bid higher than we did. I thought it was terrible. After listening to some of the stories in here, it was not so terrible.

I was advised that maybe we could try out with the 8(a) program, and so I went personally down there and spoke to Mr. Yancey about what advantages there was for us to get into an 8(a) program. I was ignorant to what the 8(a) program was about, and the reason that I am kind of embarrassed about it is because I have been in business with a family business for many, many years, and through conversations that I had, I was definitely not encouraged to proceed with the 8(a) program.

Mr. MITCHELL. Who did you talk with?

Mr. BIERRIA. Mr. Yancey.

Mr. MITCHELL. Approximately what year did this conversation take place?

Mr. BIERRIA. This was in the beginning of this year.

Mr. MITCHELL. You said you were not encouraged?

Mr. BIERRIA. It was explained how the program ran, how it operated. I was told that I had to have an established sort of business, and that he would help me put it together, but from what I told him that we would not qualify because we hadn't been in business long enough and, you know, if it was him, we should wait until our business became more established.

Mr. MITCHELL. You were applying under what name?

Mr. BIERRIA. We were applying under Thrice.

Mr. MITCHELL. Under Thrice?

Mr. BIERRIA. Right; since then, through minorities, talking to people, one of my partners just—he couldn't take it any longer. He decided to get out, so then we had become licensed A. & J. Construction Co.

Mr. MITCHELL. Apart from names, forget the names, how long had you been in construction work?

Mr. BIERRIA. Personally, over 20 years. Not in Alaska, I have been in Alaska 4 years, but prior to that, I was vice president of a Louisiana construction company in New Orleans, La.

Mr. MITCHELL. In the 4 years that you have been here, have you personally been doing construction work?

Mr. BIERRIA. Yes.

Mr. MITCHELL. As an employee?

Mr. BIERRIA. Yes; I am in a union and doing union work. I have always been involved in construction, from either the managing side or physically doing it myself. There was nothing strange to me, but one thing I can actually say is that I have seen contractors here who might not approve of the techniques some use, and some of the ones are better than the ones I could come up with, and

there are some good ones and some not so good, but one thing I have seen throughout the minority contractors here, it seems as though the minority contractors can get to a certain plateau and once they reach that, delays seem to be cut out.

Mr. MITCHELL. One of the witnesses said—I don't know whether you heard his statement clearly. He said his impressions that minority contractors can reach a certain level of development and growth. Once they reach a certain level, their legs are cut out from under them. That has been a recurring theme since we started these hearings at 9:30 this morning. Why?

Mr. BIERRIA. Like I say, Alaska is a small town. Consider it a small town, and why any person probably hates to see another man get or achieve some goals that he couldn't, I don't know. I just could not say this is the case, but it is actually being done. Me and my partner wanted to keep this business and keep it a low key business, not to step on the wrong foot.

Quitting our jobs, we sort of jeopardized our family type situation, because if we were, say, denied jobs, we lose our livelihood. Coming here, I had pro and con from home about coming down here, because if we were denied jobs, then we would be denied a livelihood and consequently, if you got payments to make and then you failed, and then you wind up worse than you were before.

Getting jobs in this town, I have been in the trenches, like I said, this isn't a new job, I have been down there working. I have been out in these bush areas which are remote areas and been in camps, large camps, 200, 250 men. If you find maybe five or six blacks out of that, you are doing good.

You can find minorities working around here, making just barely above minimum wage. When it comes down to the serious bucks here, you don't find us at all, or a token situation.

I don't know how you would run something to try to straighten this up, but I do think that we need somecne here to oversee maybe a Federal agency that can't get intimidated by someone here, that just listens, that has got the orders from someone else from outside, that can do some good for the minorities in the State. Evidently the ones that are here now, I really feel in my heart, I have nothing or no evidence to say there are strings being pulled, but I do know in my heart that things are really manipulated. It really is.

As far as jobs are concerned, I have run into job consolidation. I have seen a case at a cable station. There were four jobs, one job was in $1 million category, another one $5 million, another maybe $3 million job, and another $500,000 job. These jobs were consolidated to make one package, so naturally, it throws you out of bonding.

Mr. MITCHELL. Have you seen the reverse of that? Very often in the hearings in Washington, we have talked about breaking down the large contracts into smaller components so that minorities can do the jobs and can get the bonding to do them. Have you seen any evidence of the reverse of that taking place?

Mr. BIERRIA. Yes; the one I was just telling you about. I could understand maybe their reluctance to go on and break a job down, maybe a mechanical, electrical construction, I can understand that, but I couldn't understand them to consolidate each separate job.

You are talking about a job with no relations to another job, talking about putting one house there, and one building there, grade a street here and take those jobs and consolidate them and make them one.

Mr. MITCHELL. OK, I understood that part. That is a negative in my book. When you consolidate a whole lot of jobs, it eliminates the possibilities of minorities getting contracts to do that consolidated job. I asked you have you had any experiences the other way around where there has been an attempt made by any agency to break a contract down in smaller components?

Mr. BIERRIA. No; I have not.

That about limits what I wanted to say.

Mr. MITCHELL. Counsel, do you have any question of the three witnesses?

Mr. CLARK. No.

Mr. MITCHELL. Yes; thank you very much.

It would be extremely helpful if you would get this in writing to me, your statements, it really would be.

I just want to address one brief word to you, Mr. Lockhart. I asked a gentleman earlier why didn't he just pack up and go, and I knew why he wouldn't. As an impartial objective, chairman of a congressional hearing, I am going to impartially and objectively tell you, don't you dare leave. You stay and fight, that is the way changes are brought about.

[Mr. Bierria's letter follows:]

A. & J. CONSTRUCTORS,
Anchorage, Alaska, July 15, 1980.

To CONGRESSMAN PARREN MITCHELL
c/o Mr. Louie Overstreet.

DEAR SIRS: This letter is to inform you of the dissatisfaction we have had in the construction business.

On Dec. 11, 1979 we submitted a bid to the AUCP, NANA, Interior ASRC, Bering Straits Regional Housing Authorities and Dept. of Housing and Urban Development for the inventory existing conditions of housing constructed under the Bartlett Act during the years of 1969 and 1970.

Because of the newness of this company, (not because of inexperience) we decided to joint venture with Alaska Associates, Huntsbury and Sons, Contra-Tech and Kim and Associates for this project.

We feel that each one of these companies has the expertise to perform this contract alone. And this was explained in our Experience Profile Sheet.

We were one of the low bidders, and as such we should have had a conference with HUD as per agreement in the proposal. We were not invited to do so. The reason given to us was, we did not have the experience.

We submitted a letter of protest and we did not receive any reply.

And the contract was given to a contractor whose bid was higher than ours.

ALBERT J. BIERRIA, Jr.,
General Manager.

[A short recess was taken.]

Mr. MITCHELL. I think our hearing is now ready to resume. I am going to ask the following persons to come to the witness stand: Ms. Mildred Kiser, Mr. Steve Garcia, Mr. Donald Swanson, Mr. Phil Pleasant, and Mr. Henry Williams. If all five of those persons would come to the witness stand now.

Let the record show that these are witnesses who were not on the list of those to testify, but indicated during the course of the hearing that they wanted to make a statement.

I would be most appreciative if each of you would confine your statement to 5 minutes. But so doing, since we don't have it in

writing, and place in order the one, two, three, four, five, the number of major points you want to make within a 5-minute period, that would be extremely helpful to us.

Ms. Kiser, we will start off with you. I have a written document from you, and we will place that into the record so it becomes an official part of the record right now.

[The information follows:]

ORKA GENERAL CONTRACTORS,
Kenai, Alaska, July 11, 1980.

PARREN J. MITCHELL,
Chairman, U.S. House of Representatives, Committee on Small Business, Subcommittee on General Oversight and Minority Enterprise, Task Force on Minority Enterprise, Rayburn House Office Building, Washington, D.C.

DEAR SIR: I understand that there are going to be oversight hearings by the Minority Business Task Force on 8(a). I originally applied for 8(a) assistance in February of 1979 and was denied participation by S.B.A. on April 16, 1980. They claim I am not socially and economically disadvantaged in compliance with Public Law 95-507. They claim a thorough review was made but do not specify why there was a negative determination of social and economic disadvantage. They further claim that it is unlikely that the necessary contract support was there—a statement which is also unsubstantiated by any reasonable documentation on their part. Additionally, they claim that we do not appear to have the necessary bonding or financial capability to support my business plan projections a statement which contradicts their economic determination.

I contend that the Small Business Administration discriminates against female firms in the determination of 8(a) status. I am not a front for a white husband or any man but an individual that performs on the job as well as any other person in the profession. I feel the Small Business Administration is acting contrary to the spirit and intent of P.L. 95-507 and statements of the President, James Earl Carter in his media representations to foster and promote federal business opportunities. I did not respond or appeal through the S.B.A. process since that process to date (as it relates to my application) has been a complete sham.

I would like to participate in the upcoming hearings scheduled for Anchorage on July 15, 16, 17, 1980. Please advise me how I should prepare for these meetings.

Sincerely,

MILDRED T. KISER,
Owner, ORKA General Contractors.

U.S. GOVERNMENT,
SMALL BUSINESS ADMINISTRATION,
Washington, D.C., April 16, 1980.

MS. MILDRED T. KISER,
ORKA General Contractors,
Kenai, Alaska.

DEAR MS. KISER: We regret to inform you that your firm has been declined for 8(a) program participation.

Current 8(a) program eligibility criteria, pursuant to Public Law 95-507 and Small Business Administration Rules and Regulations, require that applicants who are not Black American, Hispanic American, Native American, Asian Pacific American, or members of other groups designated by the Associate Administrator for Minority Small Business and Capital Ownership Development will be required to substantiate, in detail, their claim of chronic social and economic disadvantage. Individuals shall be determined to be socially disadvantaged only on the basis of substantial evidence and when it can be directly correlated that such individuals suffered the effects of racial and ethnic prejudice or cultural bias or similar invidious circumstances over which the applicant had no control.

After a thorough review, it is our determination that you are not socially and economically disadvantaged within the intent of the law. We also reviewed your documentation in line with our SOP 80-05 and covered such items as geographic area, physical handicap, background and low income status.

Eligibility criteria for 8(a) program certification also requires that there is contract support available and that there is a reasonable prospect for success.

It has been determined that the necessary contract support is unlikely, in size and type, to support your firm. In addition, it does not appear that ORKA General

Contractors has the bonding or financial capability to support its business plan projections.

Should you wish your application to be reconsidered, the Small Business Administration will accept only one such request. Within thirty calendar days from receipt of this letter, you must submit all information and documentation pertinent to overcoming each specific reason for decline, which was not available at the time of decision to our SBA Anchorage District Office, 1016 W. Sixth Avenue, Suite 200, Anchorage, Alaska 99501, attention: District Director.

Sincerely,

WILLIAM A. CLEMENT, Jr.,
Associate Administrator for
Minority Small Business.

PANEL CONSISTING OF: MILDRED T. KISER, ORKA GENERAL CONTRACTORS; DONALD E. SWANSON, THE A CORP.; PHIL PLEASANT, PYROTE & PYROTE; AND HENRY WILLIAMS, BILL'S FAST PRINTING CO.

TESTIMONY OF MILDRED KISER, ORKA GENERAL CONTRACTORS

Ms. KISER. Mr. Clark, Mr. Mitchell, I am not well prepared, but you have received those letters. I heard my story here this morning over and over. In February 1979, I started my application for my 8(a) papers, and for 10 months I compiled records, papers, forms, everything that was required of me, and finally after about 10 months they told me that my files were ready to go to Seattle, and from there to Washington, D.C.

Well, on April 16, 14 months later, I received a letter stating that "We regret to inform you that your firm has been declined 8(a) program participation."

You have that letter there in front of you.

Mr. MITCHELL. From whom did that letter come?

Ms. KISER. U.S. Government, Small Business Administration, Washington, D.C.

Mr. MITCHELL. By whom was it signed?

Ms. KISER. A Mr. Paul R. Brown.

The three reasons given in this letter to turn down my 8(a) are all these of having been refuted. They are not reasons to be turned down. It says:

> After a thorough review, it is our determination that you are not socially and economically disadvantaged within the intent of the law. We also reviewed your documentation in line with our SOP-80-05, and covered such items as geographic area, physical handicap, background and low income status.

The next reason that they turned me down was:

> Eligibility criteria for 8(a) program certification also requires that there is contract support available, and that there is a reasonable prospect for success. It has been determined that the necessary contract support is unlikely, in size and type, to support your firm. In addition, it does not appear that ORKA Contractors has the bonding or financial capability to support its business plan projections.

You have the next page of that letter, which is not worth very much. It runs along the same lines.

My answer to this is, I originally applied for 8(a) assistance in February 1979, and was denied participation by SBA on April 16, 1980. They claim I am not socially and economically disadvantaged in compliance with the Public Law 95-507. They claim a thorough review was made, but do not specify why there was a negative.

Mr. MITCHELL. On what basis?

Ms. KISER. Determination of socially and economically disadvantaged.

Mr. MITCHELL. On what basis do you claim socially and economically disadvantaged?

Ms. KISER. I am a woman working in general contracting, and I started this business out in 1968 under another person's name, and for years I have had to work and not let a lot of people know that I am a woman and use the name M. T. Kiser instead of my name Mildred T. Kiser, and I finally decided to come out of the woodwork, and I do this work.

There are people in this room, they can verify. They have seen me get on those roofs and patch them and lay just as good a driveway as any man, and I have good people working for me.

Mr. MITCHELL. Your social and economical disadvantage is based upon your sexual identity?

Ms. KISER. That is true.

I also have nine employees that are steady employees and two of those are handicapped people. I was told when I went in to talk to Mr. Yancey about being turned down on this 8(a), that there was no bonding available was one of the reasons. The other was that there was not enough work, and in the literature and also right here, I heard you say that the bonding is available for people that have proven that they can work, that they can do the jobs, and I have been doing the jobs.

Also, I was told about—it would have been after I had been trying to get this pushed through—about 8 months worth, not to contact any of my Senators or any of my Congressmen or pull any political letters out, because if I did that, that they would come across the desk and slow down the process of my 8(a), and I had already been after this for 8 months.

Mr. MITCHELL. Who told you that?

Ms. KISER. Mr. David Yancey.

I am not asking for a free handout. I am asking for help so that I can help myself.

Mr. MITCHELL. Do you have any contracts pending right now?

Ms. KISER. Right now I have people that are finishing up work on the Claia buildings here in town.

Mr. MITCHELL. Do you have any other contracts pending?

Ms. KISER. I have several houses and contracts with Carr Gottstein, which is one of the bigger outfits here in town, automotive parts, airport machinery. Those people will verify I do good work. I have worked for them, and I have more contracts coming in.

One of the bigger real estate people here, Jack White, I do the majority of his roofing now.

Mr. MITCHELL. Roofing?

Ms. KISER. Roofing. We also do paving, and another field that we are good at is dredging, and when I approached Mr. Yancey with this dredging several months go, he didn't know what I was talking about. All around the State of Alaska there are dredging jobs and in 1968 I did a dredging job down the Nanilchik River, a small boat harbor, but I had to do that job under the name of a man's name, Mr. Bill Mitchell, and I am not fronting for any man. I own the company solely myself. I always have, and I work in any phase that there is. I can smear tar as good as the next man and I do the

bookwork and there are men right here in this room that will testify to that.

Mr. MITCHELL. Thank you.

Before we hear from the next witness—and I am cutting the time because we didn't anticipate hearing from you—I think it is important at this juncture that we have a little basic lesson in civics and the basic lesson is in a representative democracy, people go to the polls and select those who will hold office to represent them, and that is basic to a democracy, and basic to that process is that if a person is elected to office to represent people, that representation is not by the Constitution limited in any fashion.

The basic lesson in civics that I am trying to teach is that no agency of government, city, State, or Federal, should have as its policy or the individual policy of any one of its employees, that the action of a duly elected representative of the people would in any way under any circumstances have an adverse impact on what that person wanted. This is about the third time I have heard that, and my blood pressure is going up.

These agencies of government are not staffed by representatives of the people. They are not. They are supposed to be responsive to the will of two agencies of government, the executive branch, and legislative branch, and I am giving official warning to all agencies, that this business of threatening or insinuating or intimidating that if a person exercises his basic right under the Constitution to go to his or her elected official for assistance, it will in some way adversely impact on what that person wants, then the agency process has got to be stopped.

I guarantee you, Ms. Kiser, that I will do all within my power to stop it. I am certain that there is some law, and I have to dig out the law, I just don't know, but I am certain that there is some law that would relate to the subversion of the will of Congress or the will of the executive branch on the part of any official in government, in an agency. We are going to have to dig that law out and start using it.

May I hear from you?

TESTIMONY OF PHIL PLEASANT, PYROTE & PYROTE

Mr. PLEASANT. I am Phil Pleasant, agent for Pyrote, a minority building supply retailer, and I concur with Mr. Eaddy that we have been having the same problem, but the problem that I wanted to address was mainly the problems of grant moneys. No one here has yet addressed those, but out in the black community we have a lot of people with a lot of ideas on development in the community, and they seem to always come up short on requirements to receive grant money. But we look around in other sections, and their ideas are coming up all over town, but they are not getting paid for them.

We have ladies interested in day care. We know that they have day care moneys available, local and Federal.

We have people out on drug abuse and alcohol abuse programs, all rehabilitation programs, social service programs, different types of programs for the development of the community, and they can never seem to get it together good enough where they can get grants.

Even the State puts $8 million of grant money to help social services, I doubt whether we get any of that money for grant money into the community. I am wondering if you could also look into this?

Mr. MITCHELL. My answer would be no. I would be exceeding the jurisdiction of my committee to do that. If it is grant money in connection with economic development, then I might have the jurisdiction to look into the problem. If it is grant money that is not related to economic development but solely related to the delivery of services, then I think that is beyond the scope of the House Small Business Committee, and certainly beyond the scope of the task force on which I serve.

If you can pinpoint for me problems with grant money which are directly related, grant moneys which are related directly to economic development, or entrepreneurial development, then I would try to work with it.

By way of illustration, the Department of Energy has already indicated that it will have some grant money available to start looking at new sources of energy, or how to utilize in a better fashion older sources. There is no question in my mind but that is related to economic development. Therefore, I would be empowered to look at that kind of grant, I think.

Ordinarily, under most circumstances, I would not be empowered. That is the task force, nor the House Small Business Committee, would not be empowered to look at a grant for day care.

Mr. PLEASANT. For MBE centers or monitoring agencies?

Mr. MITCHELL. Yes; I would, because I think that is directly related to economic development, and I think that would be within the scope of our jurisdiction.

Mr. PLEASANT. Would it be within the scope of your jurisdiction to look at the grassroots and design of youth work programs?

Mr. MITCHELL. No.

Mr. PLEASANT. It is economic development.

Mr. MITCHELL. That would clearly come under the House Education and Labor Committee rather than House Small Business Committee.

OK, if you have some particulars with reference to grants, directly related to economic development which have been sought for and denied, send that information to me, I will be glad to take a look at it.

Mr. PLEASANT. Thank you.

Mr. MITCHELL. Yes, sir.

TESTIMONY OF DONALD E. SWANSON, OWNER, THE A CORP.

Mr. SWANSON. I am Donald Swanson, the owner of the A Corp. I am the only black accounting firm that I know of in the city. My problem is that my competitors—it is not that I am not doing so good, but my competitors are being fed by the Federal Government. I don't mind not getting the money, but the problem is that I don't want the other guy to get the money. If I want to compete, I want it to be on an equal level, on ability to perform.

I go to different organizations and they give Piedmark and Mitchell, they will give them a contract to audit different grants.

Nobody ever comes around and gives me a contract to audit anything, you see.

My complaint is, how do you give out this money? Why do you give out this money? Why hasn't somebody sought me out to give me some money?

There are hundreds of thousands of dollars, like Parnell has just been saying here. The SBA—Parnell needed some bookkeeping services. The SBA come around, they go get him a bookkeeper, CPA and put his stuff together. Nobody comes to get me. I am free enterprise. I go in and earn every dime I get. I go in—I usually have to take the lowest paying jobs which I don't mind, because I can perform. I am strictly free enterprise. Nobody owns me, I own everything. I have CPA's on call. I have bookkeepers, anything that person needs in the financial arena, I have on the staff or on call in my company.

That is not to say that I am big or anything, it is just to say I am prepared to compete, and if the money is given, and if you are going to continue to give the money, let's made sure that I get some of it.

OK, it is just to keep it fair, not because I feel that I need it. If you want to keep it fair and even, you make sure that The A Corp. is called next time that the money is given out.

One specific instance is MBE. They have money every year, OK. I started my business and I struggled and struggled and paid Uncle Sam, and I managed with no help. I have been there. Nobody wants to talk to you when you are struggling and you need some help.

All I am saying is I don't need any help, but don't help the other fellow.

Mr. MITCHELL. Not unless you are helped?

Mr. SWANSON. Not unless I get my share. If you got $200,000 to give out for the few minority businesses, you are going to have minority businesses, you got $200,000 to give out to help the small business, give me my share. If I am the only small business in the city, I am supposed to get the whole $200,000 and I am the only small black accounting firm in the city that I know of.

Mr. MITCHELL. I don't have any questions. Maybe Mr. Clark does.

We are chuckling a little bit only because of the candor with which you are speaking, not because the problem is not serious.

Let me point out that in 10 years in Congress, this has been a recurring problem for me. The same consultant firms year after year get the same contracts over and over again to do consulting work, and the black and minority consultant firms are not utilized. Since I have been in Congress, year after year the same CPA firms are called in to do the auditing to the exclusion of minority CPA's.

In a hearing about 5 years ago, I openly accused the Federal Government of running a monopolistic practice in terms of the utilization of CPA's.

Mr. SWANSON. I am not a CPA. I don't want to misrepresent.

Mr. MITCHELL. I know. The consultant CPA's and so forth.

I am saying in connection with your testimony, apparently the same kind of things is continuing at another level, and the only way I know to break it is——

Mr. SWANSON. Make sure you write down Don Swanson of The A Corp.

Mr. MITCHELL. No; that won't work at all.

Mr. SWANSON. It is worth a try.

Mr. MITCHELL. Let me tell you why. I am one Member of Congress, and there is no way in the world that I could stay on top of Anchorage and Los Angeles and my home district or 99 other places. There are some things we can do through the House Small Business Committee, and one of them is to simply set up a listing to go out to all of the agencies. You report to us on a 6-month basis which minority consultants have been used, which minority CPA's you have used.

That is the better way of handling it rather than saying, Parren Mitchell is going to sue you because that is not a good strategy all of the time. I want that to be very clear in the record. This is one of the recommendations I want to take up with the full committee, that we start looking at the agencies in terms of utilization of minority business by categories.

Mr. SWANSON. Thank you.

Mr. MITCHELL. Major, any questions?

Mr. CLARK. Mr. Swanson, have you approached the Small Business AFC here regarding contracts for your corporation, contracts that are non-8(a), and let me be more specific.

The Small Business Administration has what they call a 7(j) Technical Assistance in which they are to provide technical assistance to 8(a) firms, accounting, and the types of services that your corporation is engaged in for some of the types of services that 8(a) firms are entitled to. Have you approached the SBA seeking 7(j) contracts, consulting contracts?

Mr. SWANSON. No; and the reason I haven't is because I am too busy earning a living to go and ask somebody for something, but the reason I run across these things is because I am out there trying to get business from different people, and I find out that they are getting it for free, or somebody else is paying the way. That is the only way I find out.

Now that I know about a 7(j) contract, I can go and say well, I want some of those, too, just to make things fair.

Mr. CLARK. I would highly recommend you make your qualifications known to the district office here regarding 7(j) and forward a letter to the Congressman.

Mr. MITCHELL. Yes, your name, sir?

TESTIMONY OF HENRY WILLIAMS, BILL'S FAST PRINTING CO.

Mr. WILLIAMS. I am Henry Williams, former owner of Bill's Fast Printing Co.

I started this company in December 1975, and we didn't open the doors until 1976. It was called Quality Printing then, and so the partners all sold out, and I owned the business by myself.

I went to SBA and applied for an SBA loan, and they gave me 10 percent of the loan that I originally asked for. I used my reserves, and put the business into effect. I kept it going for approximately a year and a half, and I did produce quality work, the same as any other printing company in town, and I built a reputation of doing quality work.

I was in business for a year and a half before I even knew anything about the 8(a) program, and when it was called to my attention, I went in to talk with SBA about it, and I talked with Don Strain first, who said, "Well, I will refer you to someone else," and he referred me to Mr. Yancey.

At one point, he said that we need to have your 8(a) certification, and I says OK, and I went to another firm which was called Alaska Business Development Center, and they in turn helped me to put the 8(a) package together.

Mr. MITCHELL. Hold your mike just a little closer to you.

Mr. WILLIAMS. The gentleman that helped me with the 8(a) package, Dave Valdez, he is highly well recognized and is very capable of doing this job. The initial package I sent in was turned down. They said it was improperly filled out. There was no justification for it.

The SBA could not assist me in any form or fashion with any printing. Prior to this, I had been seeking information from Fort Wainwright and also to Fort Richardson and Elmendorf. For 6 months I did get a small contract from Elmendorf, and they said you could apply through SBA to get some of the additional printing from GPO printing offices, because they let out contracts to small minority firms.

I went back into SBA, again with the help of Mr. Valdez, and we resubmitted an 8(a) application, and this in turn was turned down, and they told me in a letter—I don't have any of the papers with me, but in essence that SBA could not help me because they didn't have any work for me. I found that very hard to believe due to the fact that I had talked with the commanding officer of Elmendorf, and at that particular time he referred me to the procurement office, and they said yes, they did have work that they sent out in the amount of probably a quarter of a million dollars a year, that they sent outside to have printing done.

Due to the fact that my outfit was a small operation, I went back into SBA and said, "I need some more money to get the proper equipment to be where I can go in competition with my immediate competitors here within the State." That was turned down and each time I went to SBA, I sort of got—I call it a form of jerrymandering. They would talk one way to me, and I would be referred to someone else, and I got all negative vibes from it.

So subsequently, Dave Yancey told me that the 8(a) program could not help me, because SBA didn't have any outlet for printing. So I find this very hard to believe, because working in the lower 48, with the Anken Industries, and we did all the printing work, when we could not fill the printing work, they would farm it out to the Los Angeles areas. When I come up here and find out the two programs were closely related, well, why not certify me on the 8(a) program?

They said, well, you go to the people and get the jobs, and then we will find out whether they are 8(a) certification or not. If I have to go out and get the jobs myself, then I don't need your program. That is the way it stood. They just turned thumbs down on helping me.

Mr. CLARK. When was the last time that you applied for 8(a) certification?

Mr. WILLIAMS. March 1979, and since then, my business has completely closed up.

Mr. CLARK. At the present time you are not in business any longer?

Mr. WILLIAMS. Right.

Mr. CLARK. Did any of the procuring officers that you talked with inform you—and I assume they probably did not—did they inform you that you did not have to be 8(a) certified to get Federal contracts as a minority?

Mr. WILLIAMS. They did not say this. They said that there is work that they send through the SBA that is 8(a) certification, and that if I would apply for the program, that they had work. They had more work than I could possibly handle through 8(a).

Mr. CLARK. Did they give you a letter specifying that they would in fact give you contracts?

Mr. WILLIAMS. Yes; I do have the letter.

Mr. CLARK. Was that letter made available to Mr. Yancey?

Mr. WILLIAMS. No; I did not give that to him.

Mr. CLARK. Is there any reason why you did not make that letter available?

Mr. WILLIAMS. I told him that I did have the letter from the Elmendorf Air Force Base, from the procurement office, that they did have printing and also I had a phone call from Fairbanks that there was a job that was being offered, and at that particular time, there was no money in Fairbanks that stood the status of a minority printer.

Mr. CLARK. Is it your intention to get back into business?

Mr. WILLIAMS. Yes; it is.

Mr. CLARK. You will make available to us your comments, and perhaps a letter from the procuring officer?

Mr. WILLIAMS. Yes. In fact, in 1979 I sent about 8 to 10 different letters to various different Congressmen, and I find it very, very hard to accept a letter stating I sent it to SBA and they in turn sent it to Senator Stevens, Senator Gravel, and I sent one to Paul Brown, and to Mr. Mitchell, and the letters came back to me, and they said this is a letter that we received from SBA.

Well, in my eyesight, the letters that I received, I was never satisfied with them, and I talked with an attorney about it, Mr. John Tally, and he said that it appears that the Senators from the State here have just more or less, gone along with SBA because the letter that SBA sent was just a copy, and in their letter they said here is a copy of what SBA says. Regardless of what I said, anything that SBA said was supposed to have been the law. I find that very, very hard to swallow.

Mr. CLARK. Thank you.

Mr. MITCHELL. Ladies and gentlemen, it has been a long, hard day, and I thank you for staying with us.

Some of the testimony has been, if not eye opening, shocking to me. Eye opening is perhaps too mild a word to use.

Tomorrow we intend to hear from the agencies of Government which have as a part of their mandate, to foster and promote the development of minority businesses, and that hearing will be open tomorrow. Any of you are absolutely free to sit in and participate

as we hear from the witnesses representing the various agencies of Government.

In concluding this first day of the hearing, I just want to make something very clear. I and my staff, we are not miracle workers. I don't want to give the impression, because we have a hearing up here that suddenly all of the problems with all of the banks, with the SBA and with the Land Management Bureau, suddenly all of those problems are going to be resolved. That is not going to happen.

I tell you honestly as I can what I have always told all groups. The only commitment I can make to you is where there are inequities which are revealed by these hearings, I commit myself to work assiduously, tirelessly to end them; but there is no miraculous process, and it is only fair to let you know that. Most of you understand that. You struggle along managing to stay in business against what appears to be insurmountable odds and on occasion—you know there is no shortcut to ending deep and systemic problems which have deep and serious racial implications.

You have my absolute commitment. Therefore, as long as I am around, I am going to be working to end those problems and to do all that is necessary to see that they do end.

Thank you very much for a good, long, hard day, and we shall be here again tomorrow morning at 9:30.

Is there a question from the audience?

Mr. SCHWARTZ. Is there a tentative schedule in which the agency heads will speak?

Mr. MITCHELL. Yes; there is. We will have it first thing in the morning.

[Whereupon, at 4:45 p.m., the subcommittee adjourned to reconvene at 9:30 a.m., Thursday, July 17, 1980.]

EXAMINATION OF MINORITY BUSINESS PARTICIPATION IN FEDERAL PROGRAMS IN ALASKA

THURSDAY, JULY 17, 1980

HOUSE OF REPRESENTATIVES TASK FORCE ON MINORITY ENTERPRISE OF THE SUBCOMMITTEE ON GENERAL OVERSIGHT AND MINORITY ENTERPRISE, COMMITTEE ON SMALL BUSINESS,

Anchorage, Alaska.

The task force met, pursuant to notice, at 9:30 a.m., in room F-278, Federal Building, Anchorage, Alaska, Hon. Parren J. Mitchell (chairman of the task force) presiding.

OPENING STATEMENT OF TASK FORCE CHAIRMAN MITCHELL

Mr. MITCHELL. Good morning. This hearing will now come to order.

My name is Parren J. Mitchell, and I am a member of the Subcommittee on General Oversight and Minority Enterprise, which is a subcommittee of the House Small Business Committee.

I have the honor and privilege of chairing the Task Force on Minority Enterprise.

I welcome all of you to the second day of 2 days of hearings on the status of minority business participation in Federal programs in Alaska.

Yesterday we received testimony from some 20 minority businesses. Many of these individuals spoke about their problems and the lack of cooperation they encounter in their attempt to gain Federal contracts and assistance.

Today we will receive testimony from the Federal sector. As I stated yesterday, the primary purpose of these hearings is fact-finding. Nearly 2 years have elapsed since the enactment of Public Law 95-507, and I am very pleased to report that that was primarily my piece of legislation that was introduced some 4 years ago, known as the Mitchell Minority Enterprise Act.

As you know, this law was designed to increase Federal contract support to socially and economically disadvantaged firms. This law complements the efforts of President Carter. By way of illustration, in December 1979 the House Subcommittee on General Oversight and Minority Enterprise, of which I am a member, discovered through testimony that agencies had let nearly $4.5 billion in contracts in violation of Public Law 95-507. During the hearing it was revealed that there were violations. Instead of dealing with $4.5 billion in contracts, we were dealing with $8 billion in con-

tracts that had been let by the Federal agencies in specific violation of Public Law 95–507.

I am the first to admit that I recognize there is always a gap between the passage of law and the implementation of the law, but in this instance, insofar as Public Law 95–507 is concerned, it has taken entirely too long to close the gap between passage and implementation. It is indeed unfortunate that the intended beneficiaries of Federal assistance are the victims of lawless action by some uncooperative Federal employees.

As stated yesterday, the primary purpose of this hearing is to solicit testimony from individuals who are involved in the day-to-day operational aspects of providing Federal contract support to minority businesses. I am of the opinion that the success or failure of Federal minority business programs will depend upon your efforts to enforce and obey the laws of this country.

I am eager to learn of your problems and successes in implementing Public Law 95–507 and related minority business programs in the State of Alaska.

Before proceeding with the hearing itself, I would like to enter into the record some correspondence received in my hotel this morning. It is the testimony of Mr. Eaddy, who did not have his written testimony as of yesterday, but he is now prepared to submit it this morning. So that will be officially entered into the record.

[Mr. Eaddy's prepared statement follows:]

PREPARED STATEMENT OF CHARLES D. EADDY, D. F. EADDY & ASSOCIATES, INC., FAIRBANKS, ALASKA

I, Charles DeLano Eaddy, first being duly sworn, depose and state: That, I am President of D. F. Eaddy & Associates, Inc., a black-owned Minority Business Enterprise with primary engagement in pupil transportation, supplies, and food service. That my firm, like other black businesses in the Fairbanks area, for all practical purposes represents a new minority group.

We are new minorities in the sense that we are not afforded the same protection, the same considerations, nor the same opportunities as other minority groups in the lower 48 states. We are exposed to a form of discrimination that is unlike anything that I have experienced or read about. The economic sanctions imposed against us would make Iran look like the C.A.R.E. Center of the world.

Ordinarily, minorities are exposed to this type treatment at the local levels of government, e.g., Fairbanks is unique in that there are no controls to insure that compliance with affirmative action mar dates is effected. To my knowledge there have been no black owned firms doing business with the city of Fairbanks. My firm has been on the bidders list for more than three years and we have not received an invitation to bid as do white firms. Approximately 30 Million Dollars were spent on supplies and services, without a single contract being awarded to a black-owned firm. At the Borough level, the bids for the most part are not even opened publicly.

The University of Alaska at Fairbanks, a prime Defense Contractor in fact (Reference United States Naval Research Laboratory at Barrow, Alaska) has refused to award me supply contracts, even when I was the obvious low bidder on at least five occasions. A case is currently pending before the State Human Rights Commission and has been pending since August 1978. The University spent in excess of 22 Million Dollars during 1979, without a black owned business having received a single contract, or, fair consideration for that matter. I was told by a purchasing agent that "we have our own system and procedures, our own fire department, police department, and for all purposes we are a separate entity from the state. When I inquired as to how much federal monies were spent on purchase orders, I was told by Mrs. Helen Billinger, that, their computers could not retrieve that kind of information.

At the State level, seemingly, only legislators have the authority to farm out "sure-footed" procurement contracts. Usually to family and special interest groups. I refer to a recent headline in the All Alaska Weekly Newspaper.

My first encounter with federal agencies was with the General Services Administration during 1978. I had traveled from Fairbanks to Anchorage in hopes of doing business with GSA. I was told that a Mr. Delameter was the head of the office in Alaska. When I arrived I was told that I had just missed him on the elevator. I then proceeded down the stairs where I saw Mr. Delameter. I approached him with a business card and an introduction. He responded by saying "I don't care who you are" and then he pushed me with sufficient force to cause me to drop my briefcase and lose my balance. I was humiliated because the lobby was crowded. I reported the incident to the Anchorage Police Department and the Federal Protection Office. I later learned that Mr. Delameter was in charge of the Federal Protection Officers as well. I heard nothing further about the incident.

My efforts to do business with the Bureau of Land Management were met with an equally resilient force. My conversations with purchasing officers at the Fairbanks and Anchorage Headquarters were fruitless. Having been on the bidders list for more than three years have not produced even an invitation to bid. Though my conversations with the appropriate personnel as recent as July 1980 left me with the impression that not only were they not familiar with Public Law 95-507, they claimed a general ignorance about the definitive meaning as it related to Alaska.

My application for Program 8(a) certification was originally filed during 1978, as of this date I have not been informed as to whether my reconsideration have been processed. When I called the Washington Office of SBA, a receptionist who identified herself as Bernice Griffith, stated to a co-worker, "this ——————is going to make me curse him out" I was also told by Mr. Dave Yancy, that, if I were to go into the janitorial field, then, maybe some contracts would be coming up. My application for the 8(a) Program was returned one time because SBA stated that they could not provide me with the proper technical, management, and financial assistance to succeed. I reapplied, with documentation that this type of assistance would be provided by the Alaska Business Development Corporation and the Minority Business Enterprise Service Center. I still feel that my application will still be disapproved because of my testimony before the Task Force. The possibility of physical harm exists also.

The banks in Fairbanks, with the exception of one (possibly), by their current standards and practices, stands to negate the 20+ percent minority participation on the Alaska Gas Pipeline. I dare say, that if Fluor were to release a contract at the $100,000 level, that, not a single black contractor would be able to mobilize if a bank loan were required. I have documented evidence that my bank (Mr. Rogers V.P. First National Bank of Fairbanks) gave a local lawyer, my account name and account number over evening cocktails, so that a levy could be attached on funds in my account. When I used the auspices of the courts to recoup my monies, then, the lawyers ego was bruised and credit was immediately denied my firm. I had previously received loans in the amounts of $5,000; $8,700; and $21,000; however, after this incident, I could not obtain a $10,000 loan with $12,000 collateral.

If immediate relief is not forthcoming, then, I am mighty afraid that black-owned business in Alaska will be added to the list of extinct species. We are already endangered.

CHARLES D. EADDY.

Mr. MITCHELL. In addition, unsolicitedly, there are about, oh, 20-some letters that have come in that were here available for me this morning. I have not had a chance to read those letters, and I am certain that they were unsolicited. I don't know what the content is. I am sure some of them will praise the agencies for the work that they have done and some will not.

It is always so curious to see the intense degree of citizen interest in these hearings, that overnight they would prepare letters and have them for me this morning. That is very healthy that this kind of thing is done on an unsolicited basis. Almost everyone who will testify today, and we have 10 witnesses, almost every person has already submitted testimony.

We will try to establish the ground rules by bringing up panels of three, so far as possible, three witnesses on each panel.

We will try to expedite matters by, No. 1, if there is written testimony, having that submitted for the record in its entirety, and/or No. 2, if a person so desires to read his or her entire testimony, that can be done. I think it would save time if we could

have the testimony submitted for the record, and the witnesses speak to the major salient points that they want to make in their testimony.

I would also like to indicate that I was very sorry to learn of the death of one of our witnesses, Mr. Wilburn, who I understand was killed in an airplane crash last week. It is most regrettable, and I am very, very sorry to hear about his untimely death.

You ought to be aware of what the flow is following these hearings. I intend to have hearings around the country. Alaska is the first one.

The second one will probably be somewhere on the west coast, either San Francisco or Los Angeles.

Each of these hearings is written up by our official recorder, and it is then printed as a part of the permanent record of the subcommittee on which I serve. And each member of the subcommittee and the full committee receives a copy of that prepared report.

That report is used to either, one, initiate new legislation, or two, to move toward further oversight of existing legislation, or three, to make recommendations to the executive branch, that is, the White House, based on any facts that we might have uncovered during the course of these hearings.

On my right is Mr. Major Clark, who is my chief counsel, the attorney on the task force that I have the honor to chair. He is a permanent staff member of the full House Small Business Committee.

I think we will proceed then with the witnesses, and I would like to call first the representatives from the U.S. Corps of Engineers, Col. Lee Nunn and Mr. Hazen Kramer.

The representative from the Federal Aviation Administration, I think that is Mr. Robert Faith.

Gentlemen, come right up and take chairs; that will be fine. If there are not enough seats, pull them up, and third, I would ask the Department of the Air Force, that is Colonel Conway and Messrs. Hancock and Dudley who are with them.

I thank all of the witnesses for taking time out from what must be an extraordinarily busy schedule to come before us to testify, and I would ask Colonel Nunn and Mr. Kramer to lead off for the U.S. Corps of Engineers.

PANEL CONSISTING OF: U.S. CORPS OF ENGINEERS: COL. LEE R. NUNN, DISTRICT ENGINEER, ALASKA DISTRICT CORPS OF ENGINEERS, AND HAZEN KRAMER, CHIEF, CONTRACTING DIVISION, FORT RICHARDSON, ALASKA; FEDERAL AVIATION ADMINISTRATION: ROBERT FAITH, WILLIAM REMSEN, REGIONAL CONTRACTING OFFICER; MARY JOHNSON, REGIONAL SMALL AND MINORITY BUSINESS REPRESENTATIVE; ANN TUCKER, CHIEF, CIVIL RIGHTS STAFF; ROBIE STRICKLAND, CHIEF, AIRPORTS DIVISION, AND LEE EDWARDS, ASSOCIATE REGIONAL COUNCIL; DEPARTMENT OF THE AIR FORCE: HOWARD HANCOCK AND WILLIAM DUDLEY; COL. DAVID R. CONWAY, VICE COMMANDER, ALASKAN AIR COMMAND, AND JAMES D. ROWELL, ALASKAN AIR COMMAND, EXECUTIVE FOR SMALL AND DISADVANTAGED BUSINESS UTILIZATION

TESTIMONY OF COL. LEE R. NUNN, DISTRICT ENGINEER, ALASKA DISTRICT, U.S. CORPS OF ENGINEERS

Colonel NUNN. Thank you.

We are pleased to attend, and since I have submitted written testimony, in the interest of brevity I will highlight some key points I would like to make about the minority business enterprise efforts that the Corps of Engineers is making here in the Alaska District.

The U.S. Army Corps of Engineers, we have made direct awards to disadvantaged businesses under the Small Business Administration 8(a) program last year in the amount of $282,300 in four separate contracts.

So far this year, the fiscal year not complete, we have awarded 12 contracts with a monetary value of over $1.5 million and we have 5 solicitations under negotiations now with 8(a) contractors in excess of $5 million.

To summarize the projections of what we expect to do this year, we expect to contribute 23 contracts to the 8(a) program with a combined award totaling in excess of $6.7 million. You will be interested to know that we have had some good success with the minority contracts in handling emergency type contracts.

We had some severe winds here in the Anchorage area on April 1, and we used contractors to do the repair jobs under $100,000, and this was a very quick way of getting results in an emergency situation.

Projects in excess of $100,000, of course, require an audit. This takes a good bit more time in order to put that under a contract, and it is not quite as useful in that regard.

We also have made direct awards that do not come under the Small Business Administration's 8(a) program. Thus far we have awarded contracts in excess of $4.5 million. A large portion of this figure came with the award, the Barrow gasoline project to a large minority business enterprise, minority firm.

Out of the total 21 construction contracts awarded thus far this year, only one has been to a large business concern, and in that particular case it was the large minority business in Barrow.

Because of the preponderance of these awards to small businesses, we are having some difficulty in administering the program with regard to subcontractors.

As you know, the small business firms are not required to submit subcontracting plans but I would say that the cooperation we have had from the contractors has been good.

I anticipate subcontracts in the amount of $250,000 to be placed this year, although, as I have indicated, the bulk of your contracts are with small businesses.

In any event, I would also like to make note of the fact that we will be participating in the Small Business open house days in the coming year. There are about 800 firms represented at these open house days. My chief for procurement supply, Mr. Carter, has been closely involved with all our efforts in this regard. He is a member of the Minority Business Opportunity Committee in Anchorage for the Federal Executive Association, and maintains liaison with the minority businesses, and has been very helpful in that regard.

I would like to close by saying that we are proud that the corps has had this sort of result in the program this year.

I have had very good cooperation with the Small Business Administration in this program. I think you can appreciate the difficulty of trying to put negotiated construction into place rapidly with the fiscal time constraints and with the audit requirements, and we have been able to overcome these and still not only meet but far exceed the goals that are normally required for our organization.

Thank you, Mr. Chairman.

Mr. MITCHELL. Thank you, Colonel Nunn.

[Colonel Nunn's prepared statement follows:]

PREPARED STATEMENT OF COL. LEE R. NUNN, DISTRICT ENGINEER, ALASKA DISTRICT CORPS OF ENGINEERS

Mr. Chairman, Members of the Task Force on Minority Enterprise, I am pleased to be able to attend the hearings today and to acquaint you with the goals and accomplishments of the Alaska District, Corps of Engineers, in our continuing effort to provide assistance to minority businesses in Alaska. To begin with I would like to describe the results we have achieved:

Direct awards to small disadvantaged businesses under the Small Business Administration (SBA) 8(a) program has increased from four contracts with a total monetary value of $282,300 in fiscal year 1979, to twelve contracts with a monetary value of $1,526,330 thus far in fiscal year 1980.

Five solicitations under the 8(a) program are presently under negotiation. The total project amounts of these proposals exceed $5,000,000. This includes a barracks and dining facility modernization project at Fort Richardson, which has an estimated project amount of $4,450,000. The 8(a) proposal for this project is currently being audited. We plan to have all five projects awarded this fiscal year.

We have six additional projects which have been accepted by SBA for the 8(a) program and are awaiting final design and issuance of plans and specifications. The estimated value of these projects is $225,000. We also expect to have these offerings awarded by 30 September.

To summarize our results and projections to date, the Alaska District expects to contribute 23 contracts to the 8(a) program with a combined award total of $6,751,330 for fiscal year 1980.

You will be interested to know that our recent experience in repairing wind damage at Fort Richardson demonstrated that the SBA 8(a) program can provide excellent response on urgent repair projects under $100,000. On projects costing more than this amount Public Law 87-653 requires audits for negotiated contracts and this requires additional time to achieve a contract award. This additional time can have an adverse impact on project costs due to cost growth or loss of good weather for construction in Alaska. In addition, the use of negotiated contracts and the avoidance of normal competitive bidding procedures results in higher project costs overall. The problems encountered in Contract Administration have not been abnormal, and the quality of construction has been satisfactory. In fact, I doubt that

our customers have been aware that work was being performed by a small minority business construction contractor.

In the area of direct awards to disadvantaged businesses, which do not fall under the SBA 8(a) program, the Alaska District has thus far in fiscal year 1980 awarded $4,582,948. A large portion of this figure came with the award of the Barrow Gas Line project to a large minority business firm. This total figure also includes award of an Architect-Engineer contract to a minority firm.

Out of a total of 21 construction contracts awarded thus far this year, only one has been to a large business concern, and in that particular case, it was a large minority business. Because of this preponderance of awards to small businesses, minority subcontracting has posed a problem. The problem being that small businesses are exempt from submitting subcontracting plans under the terms of the Contract Special Provisions. I anticipate subcontracts in the amount of $250,000 to be placed this year.

In terms of public relations with the minority contracting community, the Alaska District plans to participate in the Small Business Open House Days in Anchorage and Fairbanks, which will be held in February 1981. When last held in May of 1979, this industrial fair attracted an estimated 800 firms in Fairbanks. My chief of Procurement and Supply is a member of the Minority Business Opportunity Committee of the Anchorage Federal Executive Association, and maintains a liaison with Federal, State, and Municipal and private agencies through this medium.

In closing, we feel justifiably proud of the accomplishments of the Alaska District, Corps of Engineers in the area of minority contracting. The Secretary of the Army, the Chief of Engineers, the North Pacific Division Engineer, and I are very aware of the Corps commitment to this program, and you can be sure that it will receive our continued attention and support.

Thank you.

Mr. MITCHELL. Mr. Kramer, please.

TESTIMONY OF HAZEN KRAMER, DEPARTMENT OF THE ARMY

Mr. KRAMER. Just as a matter of distinction, I am not associated with the Corps of Engineers. I am a Department of Army representative, however, not the corps.

I am chief of the Fort Richardson Base. My testimony essentially will parallel Colonel Nunn's in that I have submitted a written statement. I will more or less highlight our accomplishments.

In fiscal year 1979, we offered requirements amounting to $6.916 million, or 21.87 percent of the total contracting effort for potential awards to 8(a) subcontractors. Of that amount, contracts with an estimated value of $1.417 million were placed with 8(a) firms under the 8(a) program; during the same period, awards relating in the amount of $11.537 million directly to minority firms not going through the 8(a) program.

This year to date we have offered to the SBA requirements amounting to $4.435 million, or 19.27 percent, of the total contractual actions that we awarded so far through June of this year.

Of that amount, promises that have been given to the SBA, we have awarded contracts in an estimated amount of $1.432 million. Our direct awards to minority businesses this fiscal year have amounted to $374,000. Right now we have two projects that are being considered by SBA, amounting to about $1.5 million. We probably intend to award them yet this fiscal year.

Implementation of Public Law 95-507 has been through the defense acquisition regulation, actually the circular 76-19.

Most of our—the majority of our requirements are in the supplies and services area, are less than $500,000, and in the construction area are less than $1 million, so to a certain extent the law is selfdefeating. Here again too, most all of your requirements are

awarded to small business concerns. As such, they don't submit a subcontracting plan.

Additionally, I am a member of the Minority Business Opportunity Committee, and do participate on the Contracting Subcommittee, whose main effort is to develop methods for furthering development of minority business enterprise here in the Alaska area.

I have no further testimony, sir.

Mr. MITCHELL. Thank you also, Mr. Kramer, for your testimony.

I have one or two questions that first I will direct to both of you.

Why is the direct contracting figure so low? For example, I think in one instance it was something like $235,000. Do you have any reason why the direct contracts to minority firms represent such a small portion of money?

Mr. KRAMER. Well, last year our direct awards to small business, or to minority businesses, was slightly larger than what our awards under the 8(a) program were. This fiscal year $374,000 is a lesser amount and I have no, I can give you no real cogent reason for that other than the fact of probable identity of minority businesses bidding on our contracts.

Mr. MITCHELL. Colonel?

Colonel NUNN. Mr. Chairman, the figure with regard to direct awards, as far as the corps is concerned, was low last year, I would say, primarily just because of the competitive situation here in Alaska. Right now the contractors are bidding very aggressively for various types of contracts, so your direct awards in a given year could very well be low.

Now this year, although I don't think this percentage will stand up, our direct awards to minority contractors exceeds that of nonminority contractors, but it is a statistical thing. There is just less minority contractors bidding. They are bidding against very competent and capable contractors in a competitive environment, and there are not going to be that many of them selected for direct award.

If we are talking about direct awards that I mentioned, I am talking about people that are bidding on contracts that are on the street as advertised and directly awarded.

Mr. MITCHELL., You say there are fewer minorities bidding, entering into that competitive process?

Colonel NUNN. Overall, when you consider the total number of contractors that are invited to bid, and that receive the Commerce Business Daily, and express an interest and submit bids, I would say that, for instance, of typical contractors, probably only one or two firms that might qualify as a minority business firm may actually submit a bid on a contract for $7 or $8 million.

The remaining bidders in a typical bid, where you have ten bidders, you may have two minority firms bidding and eight others, so you would not expect to have the sort of percentages that we have this year, and that was the situation last year.

Mr. MITCHELL. There was one other thing you said in response to my question about what I think is a rather small amount of money involved in the direct contracts.

You indicated that the minority contractors would be up against more experienced, more qualified firms, or words to that effect.

Do you mean to suggest that those who participate are in any way less qualified or less experienced?

Colonel NUNN. No, definitely not. As a matter of fact, I would think that the results that we have have been very much to the effect that the minority firms have performed as well as any firm, and I would say that the using agency, or the customer, is very seldom aware that it is even a minority firm that is doing the business.

What I indicated was that the direct award on the street bids have a very competitive nature to them, and the minority firm may be up against a much larger firm, both in terms of the style and bid preparation, experience here in Alaska, and while they may bid, depending on where the work is, because of the very nature here in Alaska they may not be competitive.

I will give you a specific example. If you are doing work out on the Aleutian chain, contractors that do that work have to be familiar with the peculiar weather situations, the extreme logistical problems, and there are very few that have those kinds of skills and abilities to do work out there, so the ones that have that are going to be the most competitive. They are going to be the ones that will come in with the lowest bids. And the reverse situation, when those firms, in my experience of bid on work here in Anchorage, the Aleutian chain firms are nervous about it, and they just don't compete with the people that are knowledgeable in this area.

Mr. MITCHELL. Thank you.

Colonel NUNN. This is the features that tend to discriminate or differentiate in any given year in any given area with regard to whether a minority firm will get it, not any relative difference in ability or performance standard for the minority contractors, has been excellent.

Mr. MITCHELL. Thank you.

In fiscal year 1979 there were four contracts with a total value of $282,000-plus given as direct awards.

What percent of that, what does that represent as a percentage of the total that went out in direct awards in fiscal 1979, not all the awards you made? I want to get what percent of minority direct awards were of that grand total.

Colonel NUNN. It would be a small percentage because our direct awards contracts were in excess of $20 million, and so this total of $280,000 would be——

Mr. MITCHELL. A percentage of 1?

Colonel NUNN. Approximately 1 percent direct awards.

Now we are talking about contracts, for instance, that the Corps is awarding in the flood control project in Fairbanks, contracts in excess of $10 million total, including modification and additions, so this percentage is very small.

Mr. MITCHELL. Could we look at fiscal year 1980 in which the amount increased to $1.5 million-plus? What percent would that be of the total contracts let in fiscal year 1980?

Colonel NUNN. Thus far, it would probably approximate 27 percent is what Mr. Carter tells me is the exact figure.

Mr. MITCHELL. In 1 year, you have increased the minority participation in just this category by 25 percent?

Colonel NUNN. Yes, sir.

Mr. MITCHELL. OK, now let's look here to your projection of $4 million, in fiscal year 1981 is it?

Yes, what do you project, what percent will that be of the grand total that you are projecting for fiscal year 1981?

Colonel NUNN. Sir, I don't believe I have given you any fiscal year 1981 figures. I think the projection was for the total of this year.

Mr. MITCHELL. $1.5 million plus, you hope, to get it up to $4 million?

Colonel NUNN. Well, we have over $5 million under negotiation right now, and we expect to get that awarded before the end of September, so that would be added onto the $1.5 million.

Mr. MITCHELL. And that would make up your 27 percent, if those projections hold?

Colonel NUNN. We are at 27 percent right now. What the total percentage will be, I can't really say, because we have direct awards that are yet to be opened, and I don't know what the bid amount will be.

Total programs, the corps again this year, it is going to be in the neighborhood of $16 million, and of that total I am projecting about $6.7 million will be for minority, so we are talking perhaps 40 percent.

Mr. MITCHELL. OK, if that is accurate, and I have no reason to doubt it, I think that is the kind of thing that is very, very encouraging. If you can increase from less than 1 percent in one fiscal year to 6.7 percent in the next fiscal year, I think that that is very, very encouraging. I won't ask you how you have done it, but if indeed these are accurate figures, that is a pretty good example for the other agencies of Government to follow.

Are you familiar with the Army pilot program?

Colonel NUNN. Yes, sir.

Mr. MITCHELL. Have you experienced or had any difficulty in implementing your part of the Army pilot program?

Colonel NUNN. No, sir.

We have been working closely with SBA with regard to this program, and it is, in my estimation it has worked out very satisfactorily. The only problem that I would mention is the negotiated contracts are going to, as a rule, be more expensive to us than the bid contracts. We expect competitive bidding would give us a price edge over negotiated contracts.

Of course we don't negotiate if there are less than two contractors capable of doing the business, since that particular contractor would have difficulty, or would possibly be able to hold us up for an unreasonably high price, knowing he is the only one that could do the work, and in a situation like that we would go out for bids.

Mr. MITCHELL. I would like to put this question directly to Mr. Kramer.

In your testimony you indicated that something close to $7 million was offered to SBA for potential participation. That was in fiscal year 1979, right?

Mr. KRAMER. Yes, sir.

Mr. MITCHELL. And of that $6.9 million offered, contracts with an estimated value of $1.4 million were actually placed, is that correct?

Mr. KRAMER. Yes, sir.

Mr. MITCHELL. How do you explain the gross disparity between the size of your offering and the actual placement with minority firms?

Mr. KRAMER. I think it is primarily based on the fact the SBA has not been able to match the requirement with a certified 8(a) contractor.

Mr. MITCHELL. Then the onus falls on SBA?

Mr. KRAMER. I won't say that.

Mr. MITCHELL. The reason for the disparity falls on the SBA, is that a kind of more euphemistic phrase to use, falls totally on SBA?

Mr. KRAMER. All right.

Mr. MITCHELL. Are you aware of a central register that is kept by DOD of minority firms all over the country?

Mr. KRAMER. No, sir, I am not.

Mr. MITCHELL. Are you, Colonel?

Colonel NUNN. Sir, are you referring to the ACAS system?

We have a computer consolidation of all firms, and I don't believe it breaks the firms out with regard to whether they are minority or not, but it is all firms of different capabilities.

Mr. MITCHELL. A year ago a representative from the Department of Defense, a year ago or more a representative from the Department of Defense gave testimony before the full subcommittee that they had indeed set up a computerized system in which they were able to identify a preponderance of minority firms in the Nation. Are you unaware of that?

Colonel NUNN. I was until now. I am corrected by Mr. Carter, that we do have access to that, and it is used.

Mr. MITCHELL. OK. Now let me bounce it back to Mr. Kramer.

If such a pool of information is available to you, and if SBA fails to find people to fulfill the contracts that you have offered in terms of your own advocacy role in the military, would you not try to do some of that locating of firms yourself?

Mr. KRAMER. Be glad to, sir, yes.

Mr. MITCHELL. Have you done it in the past?

Mr. KRAMER. As far as using this listing in the past?

Mr. MITCHELL. Any attempt. When you say look, we are going to give you $7 million in potential contracting, and SBA for one reason or another is only able to find contractors to use up maybe one-fifth of that, then I know of the advocacy position that the military is now taking, vis-a-vis minority enterprise, with the failure—and that is my word—the "failure" of SBA to find the contractors, would you not say OK, you haven't done your job, but we are going to do it ourselves? Have you ever done that?

Mr. KRAMER. Sir, we have our own bidders' mailing list that includes minority businesses, and we do, when we make up our bidders' list to go out on a procurement, in the event that SBA is unable to make a match, we do include the minority businesses on our mailing list.

Mr. MITCHELL. That has been a usual procedure?

Mr. KRAMER. Yes, sir.

Mr. MITCHELL. You are saying that if both you and SBA can't find the firms, is that correct? If that is true, then the disparity would not be as great, it would seem to me; is that correct?

Mr. KRAMER. We do have some minorities that do bid when we put it out on a competitive procurement.

Mr. MITCHELL. No, no; we are talking about the money that you offered as requirements totally under SBA under the 8(a) program, and they can't find the people, according to your statement. They tell you, we can't find them. I am not talking about going out under competitive bid now. I am saying you say if you can't find them under this 8(a) set-aside, then we will find them. Have you attempted to do that?

Mr. KRAMER. We find them and give the names to the SBA under the 8(a) program. I don't have any authority to place awards directly with——

Mr. MITCHELL. I understand.

Mr. KRAMER. You are saying for me to go out and locate these firms and get them qualified for SBA?

Mr. MITCHELL. Say, look, you didn't do your job. I did it for you.

Mr. KRAMER. All we do is refer the minority firms to the SBA as they come into our office. We don't go out and look outside essentially to locate minority firms, no, sir.

Mr. MITCHELL. May I recommend that you do that?

Mr. KRAMER. Surely, sir.

Mr. MITCHELL. It is the difference between the letter of the law and the spirit of the law. It is the difference between carrying out the assignment and carrying it out in an advocacy fashion and in line with what the President has recommended in terms of the goals for the agencies this year, and in terms of the law itself, that it would certainly enhance your image, it would seem to me, the Army and the military, to go out and say we will find them, and recommend these names and bring them in and recommend them to the SBA.

Mr. KRAMER. Yes, sir.

Mr. MITCHELL. Thank you, sir.

Any questions, counsel?

Mr. CLARK. Mr. Kramer, do you provide SBA with any advance notice of 8(a) contracts? What type of procedure do you go through?

You state that you have given, you gave SBA so many millions of dollars in fiscal year 1979, and only a percentage of that money was used under the 8(a) program. At what point in time in your procurement process do you inform SBA of these contracts?

Mr. KRAMER. What our procedure is is that at the beginning of each fiscal year we provide the SBA with our known recurring requirements. In the list that you have, the dollar figure in my testimony is the sum total of that list provided to the SBA at the beginning of each fiscal year.

Mr. CLARK. Is that broken down into the types of contracts that you will be procuring for that year?

Mr. KRAMER. Yes, sir, we identify basically what the requirement is.

Mr. CLARK. Then you are telling me at the beginning of the fiscal year SBA has knowledge of the potential areas that you will be seeking 8(a) contracts for doing that fiscal year?

Mr. KRAMER. That is right.

Mr. CLARK. OK. Thank you.

Colonel Nunn, do you purchase any goods and services $10,000 or less.

Colonel NUNN. Yes, sir.

Mr. CLARK. Do you have a figure in terms of the amount that you purchased for fiscal year 1979?

Colonel NUNN. I have some figures here, primarily fiscal year 1980 figures.

The only figures that I have in our small purchase orders are for fiscal year 1980 figures. I don't have the fiscal year 1979 figures here.

Mr. CLARK. Are all those purchases with small businesses?

Colonel NUNN. The bulk of them are, yes.

Mr. CLARK. Do you have any figure broken down in terms of the number of purchases to socially and economically disadvantaged businesses under the $10,000 and under figure?

Colonel NUNN. We have two categories, military construction, and civilian works construction.

Under the military construction program, I don't have it. Well, I have a total number. We have had a total of 127 actions to date. The percentage, the total small business actions have been 114 of those 127 for a total; of 90 percent.

With regard to the civilian work side of the house, we have had a larger number of actions, but about 79 percent small business actions.

Mr. CLARK. You do not have a breakdown in terms of whether or not any of those actions were with socially and economically disadvantaged businesses?

Colonel NUNN. Yes, under the total minority business enterprise actions, under the military, we have had four to the MBE's.

It is a total of 3 percent, and on the civilian-plus dollars, have had 16 total actions. The military side amounted to some $12,664. On the civilian side it is some $24,900 plus dollars.

Mr. CLARK. Thank you. That is all.

Mr. MITCHELL. Gentlemen, thank you very much. I don't know whether you can stay all day. You are perfectly free, if you so desire. If I have additional questions that I have not thought of, because it is so early in the morning, I would like to be able to address those questions to you in writing and get a response.

I will try to stick with my own ground rules from this point out. I meant all three of you to give your testimony and then get into questioning. I did not do that in this first go-around. There were two other witnesses who were to be a part of this panel, Mr. Faith with the FAA, and Colonel Conway.

Colonel Conway will join us at the table here.

If you have staff, that will be fine.

I am not at all sure whether a colonel outranks a director; but since the director was at the table first, I will use my congressional privilege of having him serve as the first witness.

Mr. ROWELL. I am with Colonel Conway, director of the small business for the command. I wonder if it would be permissible for me to be with him.

Mr. MITCHELL. Yes.

Mr. Faith, please proceed. Your entire testimony is submitted for inclusion in the record.

[Mr. Faith's prepared statement follows:]

PREPARED STATEMENT OF ROBERT L. FAITH, DIRECTOR, ALASKAN REGION, FEDERAL AVIATION ADMINISTRATION

Mr. Chairman and Members of the Task Force, I am Robert L. Faith, Director of the FAA's Alaskan Region. I am pleased to be here today with members of my staff to discuss our commitment to assist minority business under Public Law 95–507 and related laws, regulations, and orders.

This region has for a number of years promoted activities which assist minority businesses. In doing so, we have at times anticipated the law, have provided leadership and assistance to other Federal agencies, and in the total impact of our action, not only met the letter of existing laws, regulations, and orders, but have carried out the intent and spirit of such guidance and requirments. Where dollars are concerned, we have three opportunities to do so: through direct construction contracts and service contracts; 8(a) contracting through SBA; and through the requirements specified in our quarter-in-aid. Through these programs, we meet the requirements of the law. In addition, our activities which provide assistance, information, and help to small businesses, minority enterprises, and other government agencies involved in this effort, help us achieve the spirit and intent of the law. Some examples of the latter may show this more clearly.

We have consistently promoted minority business opportunities in Alaska. In fact, we received the SBA 8(a) Special Achievement Award in 1971 for our efforts. In 1974 and 1975, we worked closely with the Small Business Administration to better fulfill our commitment to minority enterprises with regard to procurement actions.

In 1975, we developed a booklet to promote a better understanding of "How to do Business with the Federal Government in Alaska." This booklet was distributed through minority business associations and SBA offices. This effort has been continued through the Anchorage Federal Executive Association (FEA). FEA has updated the booklet and included all other government agencies which do business in Alaska. Additional distribution was made during the U.S. Department of Commerce, "Business Opportunity Conferences," held in Anchorage and Fairbanks on May 2 and 3, 1979, in which we participated.

We have also promoted and helped conduct MBE meetings in Anchorage and Fairbanks. For example, our Contracting Officer made a speech to the small business and minority contractors as a representative of all Federal civilian agencies at the Small Business Week activities in 1979.

With FAA assistance during 1977 and 1978, the United Bank of Alaska became eligible under the Minority Bank Program, thereby qualifying as a Federal Depository.

In Alaskan terms, Mr. Chairman, we are a large government agency with statewide offices and services. We are not the largest, though; the Departments of Defense and Interior also have statewide commitments and larger budgets and staffing. Nevertheless, we believe that our activities in working with minority business enterprises have provided leadership and a prototype for other agencies to follow.

With regard to the letter of the law, as prescribed by Public Law 95–507 and Executive Order 11625, we have consistently surpassed established goals for MBE direct contracting, subcontracting, and set-aside contracting, while we increased our MBE contracts by 22 percent over the established goal. (Tabulations for FY–76 through FY–80 to date are provided in Exhibit 1.) This achievement not only reflects the requirements of Public Law 95–507, but is a continuing development of our long-standing commitment to fostering the minority business program in Alaska.

Although we are today, in this hearing, concerned with the small business and minority business enterprise, I would also like to point out that we have not overlooked other opportunities such as that provided by construction of the Anchorage International Air Traffic Control Tower, an award-winning facility which has attracted considerable favorable attention. This control tower was constructed by a minority firm through a $2.3 million dollar competitively awarded contract. This was the largest single award in DOT in Alaska in 1975. We currently have another air traffic control tower under construction at Bethel, Alaska. This project, in excess of $1.0 million, is fully utilizing minority subcontractors.

Before providing some specifics on the types of construction and amounts of contract awards in the past few years, I would like to explain some of the administrative procedures we follow. We search for MBE firms through trade organizations.

the National Minority Business Directory, the Alaska Minority Business Directory, and the Minority Business Enterprise Program which operates under the auspices of the Federal Executive Association. We are also utilizing SBA's Procurement Automated Source System (PASS), a computerized central file of small businesses, minority businesses, and women-owned businesses, which enables us to identify potential sources for the products or services we need. The capabilities of the individual firms are also programed into the central computer. We encourage businesses to add their data to the system. As time and experience allow the "system" to develop, we should be able to respond more rapidly as search time for capable, eligible firms is reduced. We participate in small business seminars and workshops conducted by SBA and the Minority Business Opportunities Committee to promote better understanding of doing business with the Federal Government. We periodically meet with representatives of minority groups and corporations to provide assistance in their various programs to develop their potential to realistically compete for direct or subcontract awards involving Federal dollars.

In Alaska, the 8(a) program is totally administered by the Small Business Administration (SBA) through the Business Development Branch of their District Office. Our relationship with SBA is excellent. The administrative policy is reasonable, and deadlines established are generally both realistic and attainable.

We have 30 8(a) listed sources within the Alaskan Region. This list includes A&E firms, surveyors, general construction, specialty construction and janitorial services. The list is maintained and controlled by the SBA. All our requirements are submitted to SBA and they, in turn, select the 8(a) contractor. This selection in most cases, is based on the 8(a) contractors' approved business development plan. The list has grown from 23 to 30 in the last 3 years. When we meet minority contractors who show promise and need assistance, we explain the 8(a) program to them and refer them to SBA for additional information.

Generally, the 8(a) contractor has been found to be capable of performing all requirements we have specified. Joint-venture agreements have been executed where projects demanded more expertise, financing, or bonding than can normally be expected of the 8(a) contractor. SBA assists those contractors who require assistance in completing the necessary paperwork. Contractural obligations, as a general rule, have been met by 8(a) contractors as well as they are met by contractors receiving contracts through competitive bidding procedures.

The bulk of our contracting opportunities for both supplies and services falls into the category designated for small business set-asides. In this regard, chapter 3 of PL 95-507 has the most impact on our contracting programs.

The FAA process for establishing goals for the utilization of Minority Business Enterprises in our contracting programs is coordinated at the Washington Headquarters level. Each field element identifies potential Section 8(a) and MBE contracting opportunities by dollar amounts and provides this information along with the estimated total contracting dollar amount to the Washington office. Our Headquarters then sets the dollar goals for each field element. Exhibit 2 shows the fiscal year 1978 and fiscal year 1979 goals and achievements in dollars and as a percentage of the total contracting dollars.

Most of the records for years prior to fiscal year 1978 are retired but we were able to develop the following statistics from other reports. The combined 8(a) and MBE goal for fiscal year 1976 was $1.146 million; our accomplishment was $3.096 million. For fiscal year 1977 the combined goal was $1.116 million; our accomplishment was $1.168 million. As you can see from these exhibits (1 and 2), we have met our goal for each of the last four years, and are well on our way to a similar attainment in fiscal year 1980.

With regard to our grants-in-aid program, FAA has long had a responsibility to enforce Title VI of the 1964 Civil Rights Act. Complying with this requirement, we have conducted reviews of grant recipients under the Airport and Airway Development Act of 1970. These reviews determine whether or not the recipient and all lessees or contractors to the sponsor are providing equal service to the public and whether or not segregated facilities have been prohibited. Our grant agreements also require the sponsor to ensure that the minority business community is advised and aware of opportunities available at airports which receive FAA assistance through grants. For a variety of reasons, the administrative rules and procedures under which these reviews were conducted have not been totally successful nor did they achieve the intent of the program. On March 31, 1980, the Department of Transportation published its final rule on the participation of MBEs in DOT programs. This rule established a uniform program by which firms owned and controlled by minorities and women may participate in contracts let by recipients of financial assistance from DOT. Part of the legal authority for this regulation includes Executive Order 11625, dated October 13, 1971, which requires that Federal

agencies develop comprehensive plans and programs to encourage minority business enterprise.

Section 30 of the Airport and Airway Development Act of 1970, as amended, requires the FAA to take affirmative action to ensure nondiscrimination in any program or activity funded under the Act. Recently published Section 30 rules specifically provide that MBE requirements under Section 30 will be implemented. We intend to carry them out with the same purpose and intent that we have consistently shown under the provision of the Small Business Act of 1958 as amended.

One feature of the new regulation is that each recipient through its MBE program must establish both overall goals and contract goals. Overall goals set a reasonable target for the percentage of the dollar value of the recipient's FAA/DOT assisted contracting that will go to MBEs over a given period or for a particular project. Overall goals should be based on factors such as the kind and amount of the recipient's contracting activity and the availability of minority contractors. For example, the Alaska Department of Transportation might decide that a reasonable goal for MBE participation in its program in a given year was 15 percent of the dollar value of all DOT-assisted contracts. A modal agency of DOT must approve the overall goals and the methods used to set them. In Alaska, the State Department of Transportation and Public Facilities (DOT-PF) will submit its plan and goals to the Federal Highway Administration for their approval.

Approval by one mode will constitute overall approval by all modes.

These goals will establish a dollar value expressed as a percentage for each contract which has subcontracting possilities that can be performed by MBEs. Contract goals may vary considerably, depending on the kind of work to be performed and the availability of MBEs to do it; however, over the long run, the recipient's contract goals should call for enough MBE participation to meet the overall goal.

The major distinction between this rule and our prior enforcement of the Title VI nondiscrimination clause is the requirement for specific approved dollar goals from each sponsor. These goals provide a meaningful measure of whether or not a sponsor is truly providing an opportunity for participation. We anticipate a better working program as a result of this change of the governing regulations. Our region's Chief of Civil Rights addressed the Minority Business Awareness Fair in Anchorage on July 15, outlining the impacts of this regulation.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions you may have. As I mentioned before, I have staff members with me who face the challenges presented by this program on a daily basis. A challenge they have met well, I think, as shown by our exhibits and some of the other informtion I have tried to convey in my statement. I would also like to mention that their performance has not gone unnoticed by higher management. Our Procurement Branch received a group achievement award and the Chief at the time, Clark Horton, was recognized with a Superior Achievement Award by the Administrator of FAA.

EXHIBIT 1.—ALASKAN REGION CONTRACTING GOALS—MBE AND ECONOMICALLY AND SOCIALLY DISADVANTAGED PROGRAMS

	Goals	Achievements
Fiscal year 1976:		
8(a)	$54,000	$696,115
MBE	603,306	2,400,855
Total	1,146,06	3,096,970
Fiscal year 1977:		
8(a)	800,000	871,878
MBE	16,000	296,900
Total	1,116,000	1,168,778
Fiscal year 1978:		
8(a)	466,000	609,071
MBE	631,050	884,746
Total	1,097,050	1,493,817
Fiscal year 1979:		
8(a)	567,430	690,815
MBE	274,000	499,202
Total	841,40	1,190,017

EXHIBIT 1.—ALASKAN REGION CONTRACTING GOALS—MBE AND ECONOMICALLY AND SOCIALLY DISADVANTAGED PROGRAMS—Continued

	Goals	Achievements
Fiscal year 1980—October 1, 1979–June 0, 1980 (to date):		
8(a)	$525,000	$762,864
Subcontracting	18,000	18,000
MBE	600,000	416,417
Total	1,134,000	1,197,281

EXHIBIT 2.—ALASKAN REGION GOAL ATTAINMENT

Category	Goal	Achieved	Total contract dollars available	Percent of total awarded
Fiscal year 1978:				
8(a)	$466,000	$609,071		
MBE	631,050	884,746		
Totals	1,097,050	1,493,817	$8,414,000	17.7
Fiscal year 1979:				
8(a)	567,430	690,815		
MBE	274,000	499,202		
Totals	841,430	1,190,017	8,409,000	14.2

PANEL CONSISTING OF: U.S. CORPS OF ENGINEERS: HAZEN KRAMER; COL. LEE NUNN; FEDERAL AVIATION ADMINISTRATION: ROBERT L. FAITH, DIRECTOR; ACCOMPANIED BY BILL REMSEN, REGIONAL CONTRACTING OFFICER; MARY JOHNSON, REGIONAL SMALL AND MINORITY BUSINESS REPRESENTATIVE; ANN TUCKER, CHIEF, CIVIL RIGHTS STAFF; ROBIE STRICKLAND, CHIEF, AIRPORTS DIVISION; LEE EDWARDS, ASSOCIATE REGIONAL COUNCIL; DEPARTMENT OF THE AIR FORCE: HOWARD HANCOCK; WILLIAM DUDLEY; COL. DONALD R. CONWAY, VICE COMMANDER, ALASKAN AIR COMMAND; JAMES D. ROWELL, ALASKAN AIR COMMAND EXECUTIVE FOR SMALL AND DISADVANTAGED BUSINESS UTILIZATION

TESTIMONY OF ROBERT L. FAITH, DIRECTOR, FEDERAL AVIATION ADMINISTRATION

Mr. FAITH. Yes, sir. And I would like to take some excerpts out of that and highlight them for you.

First, I would like to introduce my staff. I have Mr. Bill Remsen who is my Regional Contracting Officer.

Mr. MITCHELL. Contracting Officer?

Mr. REMSEN. Yes, sir.

Mr. FAITH. Mary Johnson, who is the Regional Small Business Specialist and Minority Business Coordinator.

I have Ann Tucker, who is my Chief of Civil Rights; Robie Strickland, who is my Chief of the Airports Division, and Mr. Lee Edwards who is my Associate Regional Counsel.

Mr. MITCHELL. My god, Mr. Director, the whole operation is grounded to a halt with that many staff being called to a hearing. Is anybody still at home?

Mr. FAITH. Yes, sir; I sure hope so. I am very pleased to be here and to discuss our commitment to assist minority business under Public Law 95-507 and related laws, regulations and orders.

Where the dollars are concerned, we in the FAA have three opportunities to do so. One, through direct construction contracts and service contracts, 8(a) contracting through the SBA, and through the requirements specified in our Federal grants-in-aid program under the Airport Aid bill.

I would like to talk about a few of the accomplishments that we have been able to make. In 1975, we developed a booklet to promote a better understanding on "How To Do Business With The Federal Government In Alaska." This booklet was distributed throughout minority business associations and SBA offices, and the effort has been continued through the Anchorage Federal Executive Association of which I am the vice president this year.

The FEA has updated the book and included all other governmental agencies which do business in Alaska.

Additional distribution was made during the U.S. Department of Commerce "Business Opportunity Conference" held in Anchorage on May 2 and 3 in 1979 in which we participated.

We have also promoted and helped conduct MBE meetings in Anchorage and Fairbanks. For example, Mr. Remsen, our Contracting Officer, made a speech to the small business and minority contractors as a representative of all Federal civilian agencies at the Small Business Week activities in 1979.

With FAA assistance during 1977 and 1978, the United Bank of Alaska became eligible under the minority bank program thereby qualifying as a Federal Depository.

With regard to the letter of the law, as prescribed by Public Law 95-507 and Executive Order 11625, we have consistently surpassed our established goals for MBE direct contracting, subcontracting, and set-aside contracting.

Although today in this hearing we are concerned with the small and minority business enterprises, I would also like to point out that we have not overlooked other opportunities such as that provided by construction of the Anchorage International Air Traffic Control Tower, an award-winning facility which has attracted considerable favorable attention.

This control tower was constructed by a minority firm through a $2.3 million competitively awarded contract.

This was the largest single award in DOT in Alaska in 1975.

Mr. MITCHELL. Do you have the name of that minority firm?

Mr. FAITH. NANA Construction Co.

Mr. MITCHELL. Is that a minority firm primarily of Native Alaskans?

Mr. FAITH. Yes, sir. We currently have another air traffic control tower under construction at Bethel, Alaska, which will be in excess of $1 million and this one is fully utilizing minority subcontractors.

The bulk of our contracting opportunities for both supplies and services falls into the category designated for small business set-

asides. In this regard, chapter 3 of Public Law 95–507 has the most impact on our contracting programs.

The FAA process for establishing goals for utilization of minority business enterprise in our contracting programs is coordinated at the Washington headquarters level. Each field element identifies potential section 8(a) and MBE contracting opportunities by dollar amount, and provides this information along with the estimated total contracting dollar amount to the Washington office.

Our headquarters then sets the dollar goals for each of our field elements.

One thing I would like to say, too, sir, is that for 1980, after the goal had been established by Washington headquarters, we went back in, because we found other opportunities of increasing that goal. We went back in about, 2 months after we had established the goal, and upped the goal ourselves.

Mr. MITCHELL. What was the original goal?

Mr. FAITH. The original goal was $685,000, which was later upped to $743,000 to include a $18,000 subcontracting goal.

Mr. MITCHELL. You upped it by what in each of those categories?

Ms. JOHNSON. This figure is our goal now. Our projected goal was $631,000 which was upped to $685,000 and again to $743,000.

Mr. FAITH. If I remember, it was around $630,000 and we have now upped it to $1.1 million.

Mr. MITCHELL. The original goal was $631,000? And you have upped it to what?

Mr. FAITH. $1,143,000 which includes 8(a)-MBE-subcontractor.

Mr. MITCHELL. OK. Go ahead.

Mr. FAITH. I would like to say also in these particular areas the FAA in the Alaska region has been very, very pleased to see that we have exceeded every goal for the last 4 years and we will exceed even the revised goal this year. We are right at the door on meeting the goal right now, and we still have several months to go.

With regard to our grants-in-aid program, the FAA has long had a responsibility to enforce title VI of the 1964 Civil Rights Act. Complying with this requirement, we have conducted reviews of grant recipients under the Airport and Airway Development Act of 1970. These reviews determine whether or not the recipient and all lessees or contractors to the sponsor are providing equal service to the public, and whether or not segregated facilities have been prohibited.

Our grant agreements also require the sponsor to ensure that the minority business community is advised and aware of opportunities available at airports which receive FAA assistance through grants.

For a variety of reasons, the administrative rules and procedures under which these reviews were conducted have not been totally successful, nor did they achieve the intent of the program. On March 31, 1980, the Department of Transportation published its final rule on the participation of MBE's in DOT programs. This rule established a uniform program by which firms owned and controlled by minorities and women may participate in contracts let by recipients of financial assistance from DOT.

Part of the legal authority for this regulation includes Executive order 11625 dated October 13, 1971, which requires that Federal

agencies develop comprehensive plans and programs to encourage minority business enterprises.

Section 30 of the Airport and Airway Development Act of 1970, as amended, requires FAA to take affirmative action to ensure nondiscrimination in any program or activity funded under the Act. Recently, published section 30 rules specifically provide that MBE requirements under section 30 be implemented.

We intend to carry them out with the same purpose and intent that we have consistently shown under the provisions of the Small Business Act of 1958, as amended.

One feature of the new regulations is that the recipient, through its MBE program must establish both overall goals and contract goals.

Overall goals set a reasonable target for the percentage of dollar value of the recipient's FAA/DOT assisted contracting that will go to MBEs over a given period or for a particular project. Overall goals should be based on factors such as the kind and amount of recipient's contracting activity and availability of minority contractors.

For example, the Alaska Department of Transportation might decide that a reasonable goal for MBE participation in its program in a given year was 15 percent of the total dollar value of all DOT-assisted contracts. A model agency of the DOT must approve the overall goals and the methods used to set them.

In Alaska the State Department of Transportation and Public Facilities will submit its plan and goals to the Federal Highway Administration for their approval. Approval by one mode in the Department of Transportation will constitute overall approval by all modes.

The major distinction between the rule and our prior enforcement of title VI nondiscrimination clause is the requirement for specific approved dollar goals from each sponsor.

These goals provide a meaningful measure of whether or not this sponsor is truly providing an opportunity for participation.

We anticipate a better working program as a result of this change in the governing regulations.

Our region's Chief of Civil Rights addressed the Minority Business Awareness Fair in Anchorage on July 15, outlining the impact of this regulation.

Mr. Chairman, this concludes my statement. We are ready to answer any question you would like to ask.

Mr. MITCHELL. Thank you very much. I do have some questions, but I will stick by my guns, Colonel, and we will hear from you next.

TESTIMONY OF COL. DONALD R. CONWAY, VICE COMMANDER, ALASKAN AIR COMMAND, U.S. AIR FORCE

Colonel CONWAY. I am Colonel Conway, vice commander of the Alaskan Air Command.

Dr. Mark, the Secretary of the Air Force, regrets that he cannot be here, and asked me to attend in his behalf.

Mr. MITCHELL. We have a copy of your statement, and it will be submitted in its entirety for the record.

[Colonel Conway's prepared statement follows:]

PREPARED STATEMENT OF COL. DONALD R. CONWAY, VICE COMMANDER, ALASKAN AIR COMMAND, U.S. AIR FORCE

Mr. Chairman, I am Col. Don R. Conway, Vice Commander of the Alaskan Air Command. Dr. Mark, the Secretary of the Air Force regrets that he cannot be here today and has asked me to attend this hearing in his behalf.

I would just like to make a few brief remarks concerning the Air Force commitment to minority business in general and Public Law 95-507, in particular. The Air Force's commitment to assist minority businesses under Public Law 95-507 and related laws, regulations and orders is total. I have been advised by the Air Force Office of Small and Disadvantaged Business Utilization that the Air Force has taken the following actions to implement Public Law 95-507.

On November 15, 1979 a special comprehensive training session on Public Law 95-507 was attended by Air Force Directors of Contracting and Small and Disadvantaged Business Utilization (SADBU) Specialists from all major commands. The Alaskan Air Command was represented at this meeting. Since then major contracting activities have held a number of special training sessions to familiarize contracting officers with their responsibilities under the law. In addition, a formal training course for SADBU Specialists, which will contain detailed information on Public Law 95-507, has been authorized and is being developed. The first course will take place after September 30, 1980. This will be a regular continuing training course so that all newly assigned SADBU Specialists will be fully aware of their responsibilities.

Staff visits to major contracting activities in January 1980 resulted in the Air Force conducting a formal Acquisition Management Review (AMR) of the implementation of Public Law 95-507 between March 16 and April 18, 1980. The purpose of the review was to appraise the effectiveness of the Air Force implementation of the law, and in particular Section 211 of the Act which deals with subcontracting. The AMR team recommended the following:

Stronger management attention to the completeness and accuracy of monthly reports fowarded to HQ USAF.

During these initial months in implementing Public Law 95-507, contracting activities should institute a quality control review at the staff level, to ensure that plans are complete and determinations are adequately supported. To ensure consistency, it is additionally recommended that each contracting activity nominate an individual who would be singularly responsible to the Director of Contracts for the review of Public Law 95-507 actions.

A more aggressive effort should be initiated at each contracting activity to ensure that the test on the use of incentives is proceeding. Particular attention should be placed upon the selection of the type of incentives being contemplated and the appropriateness of the selected acquisition to the use of incentives of this nature.

Major commands should perform follow-up visits to the contracting activities visited during this AMR to ensure that appropriate management attention has been provided to the deficiencies noted during this review.

The report was distributed by the Air Force Director of Contracting and Acquisition Policy on July 8, 1980 for appropriate action.

Because the subcontracting requirements of Public Law 95-507 are complex, the Air Force found it necessary to develop a set of guidelines for use by contracting officers on the evaluation of subcontracting plans. These guidelines are quite comprehensive and include a summary documentation checklist to ensure uniform application of the guidelines throughout the Air Force. Attached is a copy of the guidelines. As a result of their use, we are finding that the quality of the subcontracting plans being submitted has been enhanced substantially. This, of course, should result in additional subcontract awards to small and disadvantaged businesses.

Mr. Chairman, with your permission I would now like to introduce Mr. James D. Rowell. He is prepared to give you an overview of the Alaskan Air Command's efforts to increase minority contract awards and to discuss some of the problems being encountered. With him are Mr. Howard Hancock and Mr. William D. Dudley.

I. GENERAL

The purpose of this paper is to provide guidance to principal contracting officers on what type of assistance should be requested, what to look for, and what to do in meeting this or her responsibilities under PL 95-507 concerning the submission and evaluation of subcontracting plans. The PCO has the key responsibility and must make a determination as to the acceptability of a small and small disadvantaged business subcontract plan. It must, in his/her judgment, provide the maximum

practicable opportunity for small and small disadvantaged business concerns to participate in the performance of the contract (7-104.14(b)(d)(1)).

II. ASSISTANCE AVAILABLE TO PCO

A. The ACO should as a general rule be requested to comment on the acceptability of the plan and on the contractor's past performance and compliance with the 7-104.14(a) clause, "Utilization of Small Business and Small Disadvantaged Business Concerns," and past plans. Such past compliance is to be a factor in determining the contractor's responsibility (DAR 1-707.2(b)(iii)).

B. The contracting activity Small and Disadvantaged Business Utilization Specialist's assistance should be requested in evaluating the contractor's subcontract plan (1-704.3(b)(viii)) and (xix). The Small and Disadvantaged Business Utilization Specialist will have the benefit of seeing all the subcontract plans received at the activity whereas an individual PCO may only see a few. Therefore, the Small and Disadvantaged Business Utilization Specialist should have a special expertise in assisting the PCO.

III. PLAN ELEMENTS

A. Goals

There must be separate percentage goals expressed in terms of percentage of total planned subcontract dollars for small business and awards to small firms controlled by socially and economically disadvantaged persons (7-104.14(b)(a)(1)). The contractor should include all first tier subcontracts to be awarded in performance of the contract, including a proportionate share of products, services, etc. whose costs are normally allocated as indirect or overhead costs when reasonably determined to be attributable to the contract. Practical judgment needs to be exercised regarding allocation of indirect or overhead costs. A contractor's accounting system should be accepted whenever possible. Obviously, consistency in a particular accounting system is essential in establishing goals and in evaluation of performance against the established goals. Establishment of goals will require much care in order that negotiated percentage goals are realistic and motivate the contractor to achieve. Percentage goals that are unrealistically low will only create a false sense of success and should be avoided. Likewise, goals that are too high can be counter productive. In the negotiation of goals the following information should be considered:

1. Total dollar volume of planned subcontracting, total dollar volume of expected awards to small business concerns, and total dollar volume of expected awards to small disadvantaged business subcontractors.

2. A description of the principal product and service areas to be subcontracted and an identification of those areas where it is planned to use small business and small disadvantaged business subcontractors.

3. To the extent available, the contracting officer should be furnished the names and locations of principal proposed small business and small disadvantaged business subcontractors including the type of product or service and the dollar value thereof to be awarded to each principal subcontractor. This information is to be used only to assist the contracting officer in making a determination as to the accetability of the proposed percentage and dollar subcontract goals. The contractor is not contractually bound to make subcontract awards to the designated contractors.

4. Method used in developing proposed subcontracting goals for small business and small disadvantaged business concerns. For example, did the contractor use for subcontract solicitation purposes company source lists, the small business and disadvantaged small business source identification system provided by the Small Business Administration's Procurement Automated Source System, the National Minority Purchasing Council Vendor Information Service, and the facilities of local minority associations?

5. Method used in determining the proportionate share of indirect and overhead costs incurred with small business and small disadvantaged business subcontractors to be allocated to the specific acquisition.

B. Name of individual

The contractor must name an employee who will administer the subcontracting plan and furnish a description of his or her duties (7-104.14(b)(a)(2)). It is preferable that the individual be placed in the organization structure where reporting can be done directly to the chief or vice presidential level.

C. Description of efforts

A description must be furnished of the efforts to assure that small and small disadvantaged concerns will have an equitable opportunity to compete (7-104.14(b)(a)(3)). This should include information concerning:

1. Company Wide Policy Statements (7-104.14(b)(a)(1)). It is very important that top management (preferably the chief executive) of the company issue a policy statement to delineate the proper levels of responsibility and that it be directed to all personnel who are able to implement the policy, including technical personnel. A policy statement which places the total responsibility with the individual named to administer subcontract plans is not adequate.

2. Management Interest and Involvement (7-104.14(b)(b)(2)). How does top management monitor progress towards meeting goals? Are there regular "feedback" briefings? Are there corporate wide and divisional goals? The involvement of top management in the achieve of the plan and company programs to assist small and small disadvantaged business should be visible and apparent to all personnel in the organization.

3. Personnel Motivation and Training (7-104.14(b)(b)(3)). A procedure should be established for a specific program for training of personnel involved in the aquisition process. Additionally, a procedure should be established for a program of special recognition or reward for outstanding performance in the implementation of the programs. An innovative performance awards program will eliminate the status quo by acting as an incentive to personnel to support small and small disadvantaged business efforts.

4. Special Assistance (7-104.14(b)(b)(4)). Special assistance should be given small and small disadvantaged firms by arranging solicitations, time for preparation of bids, quantities, specifications, and delivery schedules to facilitate participation by such firms. It is particularly significant when a contractor provides opportunities for small and small disadvantaged business firms to compete for developmental work which will likely result in later production opportunities. Examples of special assistance to look for, which have been proven to be extremely effective in increasing subcontract awards to small and small disadvantaged firms, include outreach efforts to locate and qualify sources, follow-up efforts to determine why small and small disadvantaged firms did not respond to solicitations or were not successful and the establishment of organizational elements to provide special management, technical and financial assistance.

5. Make-Or-Buy Consideration (7-104.14(b)(b)(5)). Adequate and timely consideration of the potential of small and small disadvantaed firms must be provided in all make-or-buy decisions. The contractor should describe how he does this. Small and small disadvantaged business should be considered as early as possible and at all levels of the make-or-buy decision making process. Lower level breakout by engineering and manufacturing production planners creates in a timely manner increased opportunities for small and small disadvantaged business participation. It is advisable that the company individual named to administer the small and disadvantaged business subcontract plans be a member of make-or-buy committees.

6. Counsel and Discuss Subcontracting Opportunities (7-104.14(b)(a)(6)). In addition to responding to inquiries as they occur, contractors can actively participate in counselling activities sponsored by business and governmental groups and take part in various organizations dedicated to increasing small and small disadvantaged business firm participation in governmental contracting, e.g., local minority business opportunity councils. The contractor should describe his activities.

D. Clause flow down

The prime contractor has an obligation to flow down the subcontracting plan requirement to its subcontractors (7-104.14(b)(a)(4)). The plan should indicate that he will do this. The ADO, in accordance with 1-707.2(c)(3), is required to monitor such performance.

E. Reports

The contractor must assure in his plan that he will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or SBA in order to determine the extent of compliance with the subcontracting plan (7-104.14(b)(a)(5)).

F. Records

The contractor must maintain the type of records necessary to demonstrate the methods by which it is intended that goals will be met and the requirements of the plan carried out (1-707(d)(iii)). The contractor's records must be maintained in a manner that permits extraction of the data which must available to support the percentage goals which are proposed in the subcontracting plan. Records must also be maintained to show the extent of achievement related to the goals. In addition, records must be capable of identifying subcontractor business size, solicitations and awards made to small and disadvantaged business concerns and the reason for nonaward to these firms. Also, the contractor should keep records concerning his

actions which demonstrate his good faith compliance with the plan. Examples of such records are source lists used, organizations contacted for sources, outreach efforts, training, and awards made. Advice and assistance regarding the development and maintenance of records and reports that reflect compliance or noncompliance with plans can be requested from the contract administration Small and Disadvantaged Business Utilization Specialist (1-704.3(b)(xxiv)).

IV. PCO actions

A. Review the plan submitted for conformance with III above.

B. Obtain advice and recommendations as necessary concerning the acceptability of the plan and proposed goals from those cited in II above.

C. Evaluate the potential for small and small disadvantaged business subcontracting based on all available information, including the apparent successful offerors historical achievements. Previous involvement of small and small disadvantaged concerns as prime or subcontractors in similar acquisitions should be considered (1-707(d)(1)). The contractor can be requested to provide such data regarding his small and small disadvantaged business subcontracting on similar acquisitions. If a follow-on acquisition is involved, good data can be expected to be available. Any previous data on similar prime contract acquisitions should be considered.

D. Negotiate, in the case of negotiated contracts, subcontract goals which represent good faith, aggressive and comprehensive effort on the part of the apparent successful offeror.

E. Determine whether the plan provides the maximum practicable opportunity for small business and small disadvantaged business concerns to participate in the performance of the contract.

F. In the case of unacceptable plans for negotiated contracts, advise the contractor in writing of the reasons for determining a subcontracting plan to be unacceptable (7-104.14(b)(2)). Do this as soon as possible so the contractor can modify the plan within the time limits prescribed. Tell the contractor how he can make his plan acceptable, e.g., by the use of additional source systems or by establishing higher goals.

G. In the case of advertised contracts, determine whether the apparent successful bidder has submitted a plan as specified in the contract clause in 7-104.14(c). If the plan does not contain the minimum specified requirements as set forth in 7-104.14(c)(a), consult with legal counsel to determine whether the bid should be rejected as nonresponsive.

H. Determine, in the case of advertised contracts where the apparent successful bidder is responsive, whether the plan reflects the best effort by the bidder to award subcontracts to small and small disadvantaged firms to the fullest extent consistent with the efficient performance of the contract. If it does not, follow the procedures in 1-707(b)(2).

I. In the case of negotiated contracts, determine whether an incentive provision as set forth in 7-104.14(d) should be used in accordance with 1-707.3(d). If so, structure an appropriate clause. If not, a written determination setting forth the reasons must be made.

J. The ACO should be requested to submit upon contract completion a report documenting, evaluating, and advising the PCO as to the contractor's performance under the subcontracting plan including (1) the extent to which the goals were met, (2) whether the contractor's efforts were in accordance with the efforts set forth in the plan, and (3) whether the contractor required its subcontractors to submit and carry out similar subcontract plans (1-707.2(c)(1)(2) and (3)). If the contractor did not comply in good faith with the subcontract plan, the PCO shall formally document the noncompliance in writing and include the reasons (The PCO may write a short note attaching the ACO's report). A copy of the official file documentation shall be furnished the ACO (1-707.2(b)(3)).

V. Summary documentation checklist

Documentation of actions taken by the PCO is important as subcontract plans and their effectiveness will be reviewed after the fact by such agencies of the Government as the Small Business Administration. Accordingly, the attached summary checklist is provided. Answers to the questions should be in brief narrative form. Yes or no answers without any explanation should be avoided wherever possible. The checklist if answered properly, can serve as the necessary documentation of the rationale for actions taken as well as serving the PCO as a reminder of the actions to be taken.

1. Were ACO comments requested and used?

2. Were activity Small and Disadvantaged Business Utilization Specialist comments requested and used?

3. Did the contractor propose separate percentage goals?

4. Did the contractor base the goals on total volume of planned subcontracting and that planned to be awarded to small and small disadvantaged firms?
5. Did the contractor describe the areas where it is planned to subcontract to small and small disadvantaged business firms?
6. Did the contractor furnish the names and locations by principal small and small disadvantaged firms to be awarded subcontracts?
7. What was the method used to develop goals?
8. How was indirect or overhead costs allocated in developing the goals?
9. What is the name of the individual who will administer the subconcontracting plan? Were his or her duties described?
10. Does the contractor have acceptable company wide small and small disadvantaged business policy statements?
11. Did the contractor demonstrate sufficient management interest and involvement?
12. Does the contractor have a program to train and motivate personnel to support subcontracting with small and small disadvantaged firms?
13. Does the contractor provide special assistance to small and small disadvantaged firms?
14. Does the contractor consider the potential of small and small disadvantaged firms in make-or-buy decisions?
15. Does the contractor counsel small and small disadvantaged firms and discuss subcontracting opportunities with them?
16. Does the contractor provide for flow down of the subcontracting plan clause to appropriate subcontracts?
17. Does the contractor assure in the plan that he will submit periodic reports and cooperate in any studies or surveys as may be required to determine compliance with the plan?
18. Will adequate records be maintained?
19. Did the initial plan as submitted provide the maximum practicable opportunity for small and small disadvantaged business participation?
20. If the plan was unacceptable, what were the deficiencies?
21. Was the contractor notified of these in writing?
22. Were you able to establish and negotiate acceptable goals?
23. Should an incentive clause be included? If not, why?
24. After completion, of all negotiations, does the plan, in your judgment, now offer the maximum practicable subcontracting opportunity for small and small disadvantaged firms?

Colonel CONWAY. OK. I would like to highlight a few points out of the testimony. The Air Force's commitment to assist minority businesses under Public Law 95-507 and related laws, regulations and orders is total.

The Air Force has taken a number of actions to implement Public Law 95-507.

On November 15, 1979, a special comprehensive training session on Public Law 95-507 was attended by Air Force directors of contracting and small and disadvantaged utilization specialists from all major commands.

Since then, major contracting activities have held a number of training sessions, to familiarize contracting officers with their responsibility under the law. In addition a formal training course for small and disadvantaged business utilization specialists which contains detailed information on Public Law 95-507 has been authorized and is being developed.

The first course will take place after September 30, 1980. It will be a continuing course.

Staff assistance visits to major contracting activities in January 1980 resulted in the Air Force conducting a formal Acquisition Management Review of the implementation of Public Law 95-507 between March 16 and April 18, 1980.

The purpose of the review was to appraise the effectiveness of the Air Force implementation of the law, and in particular section 211 of the act which deals with subcontracting.

There are a number of recommendations which I won't go over. They are in the testimony.

This report has been distributed by the Air Force Director of Contracting and Acquisition Policy for appropriate action on July 8, 1980.

Because the subcontracting requirements of Public Law 95-507 are complex, the Air Force has found it necessary to develop a set of guidelines for use by the contracting officer on the evaluation of subcontracting plans and a copy of that is attached.

Did you get a copy?

Mr. MITCHELL. Yes.

Colonel CONWAY. As a result of their use, we are finding that the quality of subcontracting plans being submitted has been enhanced substantially.

Mr. Chairman, with your permission, I would like to introduce Mr. James D. Rowell, and he is prepared to give you an overview of the Alaskan Air Command efforts to increase minority contract awards and discuss some of the problems being encountered.

We also have with us today Mr. Howard Hancock and Mr. William Dudley from our offices.

Mr. MITCHELL. Am I correct in assuming that it will only be Mr. Rowell to give testimony?

Colonel CONWAY. That is correct.

Mr. MITCHELL. Fine, we are at your disposal.

TESTIMONY OF JAMES D. ROWELL, ALASKAN AIR COMMAND, EXECUTIVE FOR SMALL AND DISADVANTAGED BUSINESS UTILIZATION

Mr. ROWELL. I am James D. Rowell, the Alaskan Air Command Executive for Small and Disadvantaged Business Utilization.

You have my prepared testimony there before you. I will not go into great detail as to it. I would like to highlight some of the points that you have there, especially on the attachments to attachment 1 to the testimony as to our accomplishments in the minority and small business area.

As of the end of June, which is the latest data we have on our small business goals and achievements, we have obtained an expenditure of $438,187 in awards under the 8(a) section of the Small Business Act.

In addition to the $438,187 under 8(a) direct awards to minorities, to date has been $1,391,656.

Now, that does not inlcude all of the moneys that will be awarded under either of the programs. It only carries us through June. We have another $151,000 that will be awarded under the 8(a) set-aside program based on the fact that these are requirement-type contracts, and the moneys are not reported until the expenditure actually comes about.

In addition to that, we have two construction programs: One valued at $104,000, and one valued at $247,100. That negotiation under the 8(a) set-aside has been completed. The $104,000 one at the time I submitted my testimony had not been awarded, but it has now been awarded. The $247,100 contract that we have completed negotiations on is being held in abeyance due to the lack of funding.

The austere funding situation is impacting on our support of the small business program in total.

In addition to the actual dollars that have been awarded to the small business and the minority firms, we have had a total of 20 contruction awards this fiscal year. Of those 20 awards, we solicited minority firms in 12 instances on contracts that resulted in the amount of $3,672,000. However, minority small business responded only to three of the 12 for $360,00. Of that amount, the small business awards actually resulted in a $60,915 contract, so in the competitive market, the minorities did not do too well.

In our services contract area, we have had 50 contracts of a value of $10,000 or more awarded for $41 million.

Now, in that instance, the small business was solicited in 34 instances for only $1.9 million of that. Of that $41 million in the services awards includes our various technical and specialized contracts for the maintenance and operation of 13 radar sites. That is an approximately $36 million contract. There was an exercise of the option and it was awarded to RCA Services Corp., and is a large business.

Mr. MITCHELL. Just as an aside, does RCA make any attempt to reach out to the minorities for assistance?

Mr. ROWELL. Labor intensive contract with all in-house forces.

Mr. MITCHELL. I love employment, but I am also concerned about dollars. The bottom line is economic development.

Mr. ROWELL. No, sir; the potential for subcontract is practically nothing, primarily due to the technical capability, and it is an in-house operation. In addition to the contract with RCA, we have the automatic telephone switching system which is $1.4 million. At the time, both of these were negotiated, we did go out through the Commerce Business Daily, we did not receive any small business firms that were even interested in either of the programs primarily due to their large dollar and the technical capability that were required under the contracts that no response was received from small business.

Of the remaining contracts, we had 34 solicitations issued to small business resulting in 31 awards for $1.7 million. Small business minority firms were solicited in 13 of the 34 instances for $1.4 million. They responded in 12 of the 13 instances and they were ultimately awarded contracts valued at $1.028 million.

In addition to the awards in this area, three were open to large or small business, we had one award to a nonprofit organization which in this instance is the State of Alaska, and was primarily for runway, airfield maintenance of two forward air stations that we use, and they own the air stations and we pay them to maintain it to meet our criteria, standards. Snow removal is one of the major items.

In addition to that, in the services area we had 18 awards for $690,000 to GSA where source selection is controlled by GSA. This was primarily in the lease of computer equipment, copiers, and this type of service.

One area that we do encounter problems is in the commissary subsistence area. Since the first of the year, we have had 155 awards for commissary subsistence with very little participation by small business in this area.

The majority of the awards in the commissary subsistence area has been made against existing DSA source control contracts or contractual arrangement. The only success we have had with small businesses in this instance is we have had five awards to small business for $53,000, one award to a minority in the amount of $10,192 which was a direct award in subsistence.

Supply contracts, we have had a total of 51 awards in this area of which small business was solicited in 24 instances, and minority was solicited in one instance and resulted in award of one contract for $27,898, which was a local firm. Large business awards, 12 in the supply end item area primarily for specialized equipment and replacement parts, we could only obtain from the original equipment manufacturer. Our computer equipment, GSA awards of $400,000 in this area of which source selection is controlled by the GSA, and we actually place the orders against an existing GSA contract, so in addition to the actual dollars that we have awarded, direct and through the 8(a) program, we have in fact looked in other channels for award of dollars to the small business and minority firms.

Minorities were solicited anywhere we had a known-source. Several instances we had no known source.

We have identified 137 minorities of which 101 are located in the State of Alaska. These minorities, some of them are certified 8(a) firms within the State of Alaska, and the others are minority firms that are not certified that have expressed a desire to bid on Air Force requirements within the Alaskan Air Command.

Under Public Law 95-507, one of the things we have done, the small business specialist for the command has formulated a program and assured that we are adhering to the small business public laws.

In addition, the Small Business Council, we have an active Small Business Council cochaired by Colonel Conway who is the Alaskan Vice Commander, of which we have the participation of all the major organizational commanders in the Alaskan Air Command.

We bring them in and try to get together on a quarterly basis and to establish a command awareness of the small business program, hopefully to identify additional programs that we can channel Alaskan Air Command dollars into the small business program.

Included are members of the Small Business Administration downtown, our small business specialists at each of the base contracting activities, and the commanders of the various organizations.

In addition, under Public Law 95-507 the requirements for subcontracting plans to be incorporated, our participation is limited in this area. Most of our dollar awards, even though it looks like we have $81 million, most of them are less than $500,000, or awarded to a small business firm.

At the present time, we have only reviewed one small business subcontracting plan on a solicitation that is in the process of being awarded. The plan did meet the criteria of the clause, and it is with a large business firm that has experience in the minority and small business area.

At the present we have two solicitations on the street that do include this, military family housing, maintenance and both of

these contracts are within the criteria that subcontracting clauses are required and have a potential for subcontracting capability.

Basically, sir, that concludes my testimony. I am available for questions.

Mr. MITCHELL. Thank you, Mr. Rowell, and I thank all of the witnesses for their testimony. Maybe a little break might be interesting at this point, not a break in terms of departure, but a break in terms of a new direction that we need to look at.

The U.S. House of Representatives is made up of 435 people. Of that number at present 17 are black.

We anticipate that number to be increased by two, two more Representatives coming from Chicago, for a grand total of 19 black persons who are Members of Congress serving in a 435-Member body.

When the word got out that there would be a substantial increase of two new black Congressmen, there was a great deal of press on that. The press pointed out the unprecedented growth of blacks in the Congress of the United States.

Growth from 17 to 19 is described as unprecedented, and I guess whenever we deal with figures, we have to look at where the starting point is, and we look at the starting point to measure the significance of the growth; is that correct? Would you agree?

So in this case, let's talk with Mr. Faith first. Your 1980 regional goal, and I must commend you. You almost doubled it on your own to approximately $1.143 million; is that correct?

Mr. FAITH. Yes, sir.

Mr. MITCHELL. What does that $1.143 million represent as a percentage of the anticipated volume of contracts and procurements for the year?

Mr. REMSEN. We estimate to have awards at the end of the year of $8.5 million, so our percentage——

Mr. MITCHELL. The total is $8 million?

Mr. REMSEN. Yes.

Mr. MITCHELL. How does that work out percentagewise?

Mr. REMSEN. I am going to make a quick guess at 15 percent.

Mr. MITCHELL. That is really in line with the DOD targets that had been established at the national level.

Mr. FAITH. Yes, sir. I would also like to give you some additional information. On our exhibit 2 on page 14 of the prepared statement we have fiscal years 1978–79 for which we have this information available of what we achieved, and what the total amount of dollars was and in 1978, 17.7 percent and in fiscal year 1979 we had 14.2 percent.

Mr. MITCHELL. What was the figure in 1978?

Mr. FAITH. 1978, exhibit 2, 17.7 percent.

Mr. MITCHELL. OK, thank you.

Mr. Rowell, you gave a really erudite and comprehensive presentation. I am somewhat socially and economically disadvantaged.

I will ask you to break it down just a little for me.

What is the total dollar figure involving minority business for 1978?

Mr. ROWELL. 1978, sir?

Mr. MITCHELL. Yes, lump it all together, anything that you did for minorities in 1978, direct, 8(a), and so forth.

Mr. ROWELL. Direct was approximately $400,000. That was total to minorities.

Mr. MITCHELL. The total for everything in 1978 was how much?

Mr. ROWELL. $400,000, sir.

Mr. MITCHELL. That includes 8(a) set-asides and everything else?

Mr. ROWELL. And direct awards.

Mr. MITCHELL. And for 1979 the total that you gave to minority businesses?

Mr. ROWELL. Approximately $2.3 million.

Mr. MITCHELL. $2.3 million. And for 1980, what is your projection?

Mr. ROWELL. Our projection for 1980, sir, is we are going to get approximately $2.5 million, and the reason that we are not exceeding that any more than we are, Mr. Chairman, is primarily because we are anticipating a $20 million reduction in our spending this year versus last year. This $20 million that we are anticipating the reduction is in the area that would be in a position to compete with small, large business, and minorities, in the construction and supply area.

Mr. MITCHELL. OK. In 1978, where there was a total of $400,000 what was the total dollar year volume in contracts in 1978 apart from minorities?

Mr. ROWELL. If we took the minorities out, sir, it would be roughly $77.3 million.

Mr. MITCHELL. $77.3 million.

And of that $4 million went?

Mr. ROWELL. $400,000.

Mr. MITCHELL. What percent does that represent of your gross total?

Mr. ROWELL. Very well below 1 percent.

Mr. MITCHELL. About one-tenth of 1 percent?

Mr. ROWELL. Yes, sir.

Mr. MITCHELL. In 1979 you increased significantly from $400,000 to $2.3 million.

What was the gross figure without including minorities for 1979?

Mr. ROWELL. Roughly $101.8 million, sir.

Mr. MITCHELL. And your $2.3 million would represent what percentage of $101.8 million?

Mr. ROWELL. Roughly 2 percent, sir.

Mr. MITCHELL. So you will have increased, or look at 1980 where you go to $2.5 million. What was the total dollar volume there?

Mr. ROWELL. $81.9 million at present, sir.

Mr. MITCHELL. What percentage does that reflect?

Mr. ROWELL. Roughly 3 percent, sir.

Mr. MITCHELL. Question, are you satisfied with 3 percent participation for minorities?

Mr. ROWELL. Yes and no, sir.

Yes, sir; we are in one aspect, by virtue of the fact we have $50 million a year that is fixed cost which we cannot break into the minorities or small business.

This is primarily in areas that are excluded from our program, even though we are charged with the total dollars, the nonappropriated funds, nonprofit, intergovernmental orders, and then you

have your commi.. ry which is tied into that, and major RCA contracts which represent $36 million of our expenditures.

Mr. MITCHELL. Director Faith, do you have any fixed cost programs in your operation?

Mr. FAITH. Yes, sir; we do.

Mr. MITCHELL. About what percent?

Mr. FAITH. It is about 10 percent, sir.

Mr. MITCHELL. And what would you conclude your percentage to be?

Mr. ROWELL. Approximately 55 percent, sir.

Mr. MITCHELL. Forty-five percent difference, and yet your 15 percent achievement is more than triple what you have accomplished, both agencies facing, you know, fixed costs. I am having some problem understanding how both agencies have at least comparable problems in terms of budget, yet one manages to achieve a 15-percent participation, and the other struggles mightily and gets up to hopefully 3 percent this year.

Mr. ROWELL. The problem is total dollar volume, percentage is a distorted figure there. We are talking roughly this year what will be available for small business of about $36 million, and that is total dollars that we will be able to set-aside for minorities, solicit direct small business and large business firms. Approximately $55 million of our dollars are in a fixed costs area. Some of these dollars will wind up in the awards to large business firms by virtue of the requirements of the command. This year we are now talking roughly $35, $36 million, of which we have even an opportunity to solicit. Out of that $35 or $36 million is our commissary. That commissary is a DSA primarily, DSA issued supply contracts which the commissary officer places his orders against those. That will represent roughly within the command $15 to $20 million dollars this year.

This is an area where we do not have source solicitation control. The control is customer preference. This is the people that have the authority to use the commissary. If he wants Kelloggs products, that is what he requests, and that is what the commissary officer is required to stock.

Mr. MITCHELL. In terms of your advocacy role where you have been associated with MBOC operations, even though that is fixed, is there not a role that you could play in terms of what is sometimes known as jawboning? Have you played that role?

Mr. ROWELL. Yes, sir; we played that role.

Mr. MITCHELL. With any success?

Mr. ROWELL. No, sir; not in this area, sir.

Mr. MITCHELL. One other question. On the small business, the bulk of these contracts go to small businesses and they don't necessarily under the law have to have a mandated minority plan; is that correct?

Mr. ROWELL. Yes.

Mr. MITCHELL. Recognizing that and that you want to be an advocate for small business, what have you done in order to encourage these small businesses that get contracts to work in a cooperative fashion with minority businesses?

Mr. ROWELL. Very little in that aspect other than making available to them the list of minority firms.

We found in the past the majority of our contracts are issued on a formally advertised basis, and at the time that he submits his proposals to us, he has already obtained cost breakouts from subcontractors for different various work that he is not going to do with his inhouse forces.

Mr. MITCHELL. Yes, sir. As a good disciple of the movement of minority business, can't you get the word out to the guys in advance and say, look, I know you are coming in, and we can't make you, but wouldn't it be nice to at least consider the involvement of minorities?

Mr. ROWELL. Yes, sir; we do have the small business utilization clause.

Mr. MITCHELL. You would use that approach?

Mr. ROWELL. Yes, sir; other than the clause, sir; no, sir.

Mr. MITCHELL. Counsel?

Mr. CLARK. No questions.

Mr. MITCHELL. Thank you for your participation.

[Mr. Rowell's prepared statement follows:]

PREPARED STATEMENT OF JAMES D. ROWELL, ALASKAN AIR COMMAND, EXECUTIVE FOR SMALL AND DISADVANTAGED BUSINESS UTILIZATION

Mr. Chairman, I am James D. Rowell, Alaskan Air Command Executive for Small and Disadvantaged Business Utilization. It is a pleasure to be afforded the opportunity to appear before your committee today. With me are members of Alaskan Air Command Contracting Staff to answer any questions you or members of your committee may have on our commitment to the Minority Business Program mandated by the Small Business Act as amended by Public Law 95-507, other Laws, Executive Orders and Regulations.

The Command has supported the mandates of Congress and the Department of Defense Policy of awarding a fair proportionate share of the defense dollars to Small Business and Small Disadvantaged Business firms. We have won the Secretary of the Air Force Small Business and Minority Enterprise Program Award for Outstanding Achievement each year since the program was initiated in fiscal year 1973.

Our continued support of the program is apparent when one reviews the increased dollars awarded to small disadvantaged firms over the past three years and the first three quarters of fiscal year 1980 (see Attachment 1). In addition to the 8(a) awards reflected on Attachment 1 for fiscal year 1980, we have completed negotiations on two additional 8(a) projects with a combined value of $351,100. One of these projects (value $104,000) will be awarded this month and the other project (value $247,100) is being held in abeyance due to a lack of funds. Additionally, we have already identified three service contract requirements with a total estimated value of $837,585 for award in fiscal year 1981. All three of these projects have been offered and accepted by Small Business Act (SBA) for 8(a) award. Negotiation for these services will be commencing shortly. In addition, two of our existing 8(a) contracts contain option provisions, with a total contract value of $310,693, for fiscal year 1981 performance. We intend to exercise these options.

Later on we will be identifying additional projects in the construction field for 8(a) consideration for fiscal year 1981 award. It is too early at this time to predict, with any degree of accuracy, what will be available during fiscal year 1981 for 8(a) construction. We will have to look at the budget to see what projects stand a good chance of being awarded.

We recognize on the surface our fiscal year 1980 achievements (Attachment 1) do not reflect any significant increases over fiscal year 1979 accomplishments but as the fiscal year comes to an end additional dollars awarded under Section 8(a) of the Small Business Act will be included. These additional dollars will be awarded against existing 8(a) requirement type contracts and the actual dollars are not reported until the services are actually performed. We anticipate awarding an additional $151,173 against these existing 8(a) requirement contracts. With actual awards of $438,187 already recorded, the requirement type contracts funding of $151,173 and the award of the $104,000 project this month we are assured of a minimum of $693,360 in awards to 8(a) firms this fiscal year. This represents an increase of 49 percent over our fiscal year 1979 accomplishments. Should funds be

made available for the $247,100 project, now being held in abeyance due to lack of funds, we will close out fiscal year 1980 with a total funding of $940,460 for 8(a) contracts.

We do not expect to reach the HQ USAF assigned 8(a) goal of $1,366,000 this year primarily due to anticipated austere funding for the remainder of this fiscal year.

It should be noted the fiscal year 1980 8(a) goal assigned by HQ USAF represents a 293 percent increase over our fiscal year 1979 accomplishments. We consider this an excessive goal and have asked HQ USAF to reassess it to a more realistic dollar figure.

We have several initiatives which have contributed to our success in promoting the Small Business and Minority Contracting program. These initiatives are:

(1) Command Small Business Council: A command small business council is active and has the commander of the Alaskan Air Command support. The council is co-chaired by the Alaskan Air Command Vice Commander and the Command Executive for Small and Disadvantaged Business Utilization. Membership in the Council also includes the Commanders of the Major Command organizations, the Small and Disadvantaged Business Specialist from each of our contracting activities and a representative of the Small Business Administration.

The purpose of the Council is to collectively work toward developing staff awareness of the Small Business Program, assist in accomplishing the small business goals assigned by HQ USAF, and to develop new ways of channeling Alaskan Air Command contract dollars into the small business program, consistent with the command's mission.

To date the Council has achieved involvement and support of the organization commanders resulting in early identification of projects/potential contracts for 8(a) awards.

(2) Minority Business Opportunity Committee (MBOC): the MBOC is a special working group of the local Federal Executive Association tasked with the responsibility of increasing the participation by minority business enterprises in Federal Contracting. One of the NBOC's accomplishments was the publication of an informational brochure designed to inform prospective firms on requirements for contracting with federal agencies, explanations of contract terminology, and the locations and telephone numbers of numerous federal contracting offices in the State of Alaska. A member of the command contracting staff serves on the MBOC.

IMPLEMENTATION OF PUBLIC LAW 95-507

The following actions have been taken in compliance with Public Law 95-507:

(1) Appointed a primary Command Executive for Small and Disadvantaged Business Utilization to provide a single point of contact within the command for small business matters. The responsibilities of this assignment take precedence over all other collateral responsibilities.

(2) Directed the incorporation of mandatory small business clauses into all applicable contracts, primarily the small business and small disadvantaged business concerns clause in all applicable solicitations over $10,000 and the appropriate subcontracting plan for small business and small disadvantaged business concerns in those applicable solicitations for supplies and service over $500,000 and construction over $1,000,000. This direction includes the review and approval/disapproval of the proposed contractors subcontracting plan for small business and small disadvantaged business concerns. It should be noted to date we have only had one subcontracting plan to review primarily due to the fact that since Public Law 95-507 was enacted we have only reviewed one proposed contract that required the submission of a subcontracting plan. The majority of our contract awards either are less than the dollar threshold for inclusion of the subcontracting plan or award is made to a small business firm which is exempt from the requirements of the subcontracting clause.

(3) Reserved acquisitions of supplies and services with an anticipated dollar value of less than $10,000:

All acquisitions with an anticipated dollar value of less than $10,000 are exclusively reserved for small business award, providing two known small business sources can be expected to submit a reasonable bid. In those instances where acquisitions with an award value of less than $10,000 are awarded to large business, prior coordination and justification is required to be submitted to the contracting agency's appointed Small and Disadvantaged Business Utilization Specialist for approval prior to award if the value is $2,500 or greater. In those instances under $2,500 the file must be documented to support the award to a large business firm.

The Air Force Customer Integrated Automated Purchasing System (CIAPS) is used to assure subject acquisitions are reserved exclusively for small business concerns provided there are two known small business sources. For instance, if a

particular item has been previously purchased with two small businesses submitting a bid the system automatically suppresses all large business firms from consideration. If the acquisitions has not been previously purchased then the buyer is responsible for locating two small business concerns for bidding purposes.

The CIAPS system also is designed to identify socially disadvantaged business firms. Each firm loaded in the CIAPS system regardless of size or status is assigned an eight digit vendors code and the eighth digit of the vendors code identifies the firms size and minority status. At present we have 137 minority firms identified and locaded into the system. Of this number, 101 of these firms are located in the State of Alaska.

PROBLEMS IN MINORITY/SOCIALLY DISADVANTAGED BUSINESS PROGRAM

a. Lack of Business Development Expense (BDE) funds:

The lack of BDE funds is a continuing problem. In the past we, the Air Force, had paid prices that were above the fair market value primarily due to SBA not have the BDE funds with which to pay the difference between a determined fair market value and the final negotiated "best and final offer" of the 8(a) firm. We recognize any new firm will have start up cost involved in getting established and the cost is valid, however, with austere funding a way of life now, we feel the burden of this expense should be borne by the SBA. If additional BDE funds were made available to SBA then the cost of the Air Force doing business with 8(a) firms would be on an equal footing with the cost of a competitive solicitation. This would eliminate opposition to the 8(a) program based on the argument the program is not cost effective.

b. Limited number of 8(a) certified small business firms:

There is a total of only 32 firms certified under the 8(a) program located within the State of Alaska. With this limited number of firms to participate in the program we are expecting problems down the road as OMB Circular A-76 is implemented and more in-house operations are contracted out.

The limited number of eligible 8(a) firms would appear to be a factor in SBA rejecting (in fiscal year 1980) four projects offered for 8(a) consideration. The total value of these projects was estimated at $187,098.

SUMMATION

We in the Alaskan Air Command recognize and appreciate the contributions small businesses and small disadvantaged businesses make to our nation's economy and our National Defense posture.

We have supported the program in the past and will endeavor to expand it in the future. The degree of expansion will be predicated on funds availability, locating new sources and implementation of OMB Circular A-76.

We attribute our success in the program to the total involvement of command personnel and the close working relationship between members of this Command and the Small Business Administration.

Mr. Chairman—this concludes my statement and we earnestly solicit any recommendation this committee may have on further enhancement of our program.

SMALL BUSINESS GOALS AND ACHIEVEMENTS

Year	1977	1978	1979	[1] 1980
8(a) goal	$75,000	([2])	([2])	$1,336,000
8(a) actual dollars awarded	297,818	[2] $357,064	[2] $466,758	438,187
Direct awards to minority firms goal	([4])	([4])	2,404,000	1,754,000
Direct awards to minority firms dollars awarded	9,520	44,939	1,885,244	1,391,656
Small business set-aside goal	([4])	([4])	12,991,864	22,000,000
Small business set-aside dollars awarded	13,809,521	11,707,848	23,438,868	8,819,471
Total dollars small business goal	19,764,000	33,668,068	27,000,000	38,147,000
Total small business dollars awarded	27,596,777	22,397,789	36,831,202	20,515,993
Total dollars awarded to large business [5]	23,108,619	45,384,881	58,000,284	50,490,077
Total dollars available for small business consideration	50,705,396	67,782,670	94,831,486	71,006,070
Other dollars awarded [6]	8,357,079	9,929,457	9,336,081	10,907,890
Total dollars awarded	59,062,475	77,712,127	104,197,567	81,913,960
Percent of total dollars available for small business consideration actually awarded to small business	54.42	33.04	38.84	28.89

[1] Fiscal year 1980 figures are for October 1, 1979 through June 25, 1980.

[2] Assigned 2 contracts per base.
[3] Assigned 3 contracts per base.
[4] None assigned.
[5] The total dollars awarded to large business category includes funds for the contract awarded to RCA Service Corporation for operation and maintenance services at 13 forward stations. Prior to fiscal year 1977 these stations were operated with in-house forces. The award of this single contract is the major cause for the increase in large business spending. At the time of this award there were no known small business firms with the capability of performing this service. The amount awarded by year is as follows: Fiscal year 1977—$6,446,101 (phase-in), fiscal year 1978—$29,095,703, fiscal year 1979—$34,420,319, fiscal year 1980—$36,013,526.
[6] Other Dollars Category is excluded from the Small Business Program and consists of the following: nonprofit, intra-governmental, nonappropriated funds and Defense Logistics Agency (fuel purchases).

Mr. MITCHELL. The Office of the Federal Inspector, Mr. Amos Mathews; Mr. Stan Brust from the Environmental Protection Agency, and Mr. John Duffy from the Department of Housing and Urban Development.

It is now 10:50 a.m. I would hope we could conclude this segment of the testimony within an hour. In the event we do that, then we will take a break for lunch.

PANEL CONSISTING OF: STAN BRUST, ENVIRONMENTAL ENGINEER, ENVIRONMENTAL PROTECTION AGENCY, ALASKA OPERATIONS OFFICE; JOHN DUFFY, AREA MANAGER, ANCHORAGE AREA OFFICE, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ACCOMPANIED BY MARLENE BOBERICK, DIRECTOR, FAIR HOUSING EQUAL OPPORTUNITY; PETE GIERE, ANCHORAGE HUD, STAFF ATTORNEY; MONROE WATSON, REGIONAL DIRECTOR, OFFICE OF HOUSING, SEATTLE REGION OFFICE, HUD; OFFICE OF THE FEDERAL INSPECTOR: AMOS MATHEWS, DIRECTOR, OFFICE OF THE FEDERAL INSPECTOR, ANGTS; JOHN ALEXANDER, DIRECTOR, EEO/MBE

TESTIMONY OF AMOS MATHEWS, DIRECTOR, OFFICE OF THE FEDERAL INSPECTOR, ANGTS

Mr. MATHEWS. Mr. Chairman, we have given you a prepared version of our testimony. I will give an excerpted version of the testimony.

My name is Mo Mathews, Director, the Office of the Federal Inspector, Alaska Natural Gas Transportation System.

With me is John Alexander, our director of Equal Employment Opportunity.

Let me begin by giving you some background information on the Office of the Federal Inspector. The Office of the Federal Inspector for the Alaska Natural Gas Transportation System was created by Reorganization Plan No. 1 of 1979. The creation of the office and the transfer of appropriate Federal enforcement authority and responsibility was outlined in the President's Decision and Report to the Congress on the Alaska Natural Gas Transportation System and approved by the Congress on November 2, 1977. The Office of the Federal Inspector was officially established on July 1, 1979, per Executive order 12142 of June 21, 1979.

The Alaska Natural Gas Transportation System is a 4,718-mile pipeline to be constructed in partnership with Canada. The Northwest Alaska Pipeline Co. has been selected to construct the Alaska portion of the pipeline, with completion scheduled in late 1985. Estimated construction costs are $7.9 billion for Alaska to be financed by private investment.

The Alaska Canada main trunk will start at Prudhoe Bay, Alaska and parallel the Trans-Alaska Pipeline System corridor to Delta Junction, southeast of Fairbanks. There it turns southeast,

generally paralleling the Alaska Highway, passing through the Yukon Territory, British Columbia, and Alberta.

At James River, Alberta, it divides into two legs. the general route of the pipeline was selected by the President in September 1977 after agreement with the Canadian Government was reached.

The Alaskan segment will be 741 miles with seven compressors totaling 185,000 horsepower. Section 17 of the Alaska Natural Gas Transportation Act and condition I of the President's decision to require Federal officers and agencies to take affirmative action to insure that no person will be excluded on the grounds of race, creed, color, national origin, or sex from participating in any activity connected with the construction and operation of the pipeline system.

On October 12, 1979, the U.S. Department of the Interior published, in the Federal Register, a proposal to establish rules to implement section 17 and condition II.

On October 18, 1979, the Federal Energy Regulatory Commission issued an order proposing to attach these rules to the conditional certificates of public convenience and necessity issued to the project sponsors of the Alaska Natural Gas Transportation System. These rules were finalized and published in the Federal Register on May 12, 1980.

The regulations specifically require the sponsor companies to address employment opportunities and Minority Business Enterprise/Female Business Enterprise Opportunities on the Alaska Natural Gas Transportation System in their affirmative action plans.

To provide Minority Business Enterprise's assistance to assist them in competing for contract opportunities on the Natural Gas Project, the Minority Business Development Agency, Department of Commerce, funded two grantees for the lower 48. The Department of Commerce will elaborate in their presentation on these two entities.

The Office of the Federal Inspector, in conjunction with the Department of Commerce's Minority Business Development Agency, is currently reviewing positive alternatives to assist Minority Business Enterprises and Female Business Enterprises in the Alaska segment of the project.

As you all are aware, construction on the Alaska segment is scheduled for the spring of 1982. More contracting opportunities will certainly be available once the construction of this leg begins.

Next, I will talk about the number of minority and/or female contracts that have been awarded by our office as well as those awarded by the three primary project sponsors. The Office of the Federal Inspector has awarded five contracts to date. Of the five, two have gone to minority firms—Unified Industries and Planning Systems International, Inc.

Total contracts awarded for the Office of the Federal Inspector is $2.5 million with $2.2 million awarded to the Minority Business Enterprises. For the Alaskan leg of the project, the Northwest Alaskan Pipeline Co. in fiscal year 1980 has awarded approximately $25 million, with approximately $5 million awarded or committed to minority business enteprises or female business enter-

prises—$4,094,500 for minority business enterprises and $887,000 for female business enterprises.

The eastern leg sponsor, Northern Border Pipeline Co., has awarded 48 contracts with 17 awarded to minority business enterprises and/or female business enterprises—14 minority busines enterprises and three female business enterprises.

The western leg sponsor, Pacific Gas Transmission, has awarded 10 contracts with 2 awarded to minority business enterprises.

I would like to spend a few minutes to discuss the affirmative action plans to be developed by the companies. The regulations, 43 F.R. part 34, require that within 120 days after May 12, the sponsor companies must have an acceptable affirmative action plan which has been approved by the Federal Inspector. The affirmative action plan must set forth overall goals and timetables for the employment of minorities and women and the utilization of minority business enterprises and female business enterprises in the construction and operation of the Alaska Natural Gas Transportation System.

It is envisioned that the plans and goals of each of the project sponsors will be developed by the sponsor in the first instance and then submitted to the Federal inspector for review.

After an initial review by the Federal Inspector, it is envisioned that each sponsor and the Federal Inspector will engage in a negotiation process to arrive at plans with goals that are realistic and that will achieve the maximum amount of opportunities possible for minorities and women.

During the comment period of our regulations, many minority groups were concerned about enforcement of the regulations. Our office is developing enforcement regulations to address enforcement procedures. These regulations will be finalized and published in the Federal Register by mid-August. In the regulations the following procedures are addressed:

We fully support both the requirement for equal opportunity during construction and operation of the Alaska Natural Gas Transportation System and the enforcement regulations, and we intend to aggressively implement them.

We have no illusions about the difficulty of our task. We are prepared to use every enforcement power at our disposal and every resource we can obtain within the Federal Government to overcome the obvious difficulties. We have made it clear to all the sponsors of this project that we mean business.

In closing, I would like to reiterate. The opportunity for minority business to participate in this project will be greater as we move closer to construction. These opportunities will be reflected in the Northwest's affirmative action plan which must be approved by the Federal Inspector by September 9, 1980. We expect this affirmative action plan to reflect as aggressive a minority business enterprise/female business enterprise program as is reflected in our internal contracting awards.

Thank you, Mr. Chairman.

Mr. MITCHELL. Thank you.

One of the most sordid chapters in America's history in dealing with minority business occurred with the construction of the Alaskan pipeline under Alyeska.

I have personal knowledge of the absolutely contemptuous attitude that was demonstrated toward minority firms by Alyeska officials during the construction of the pipeline. I recall very vividly some testimony taken where some minority businessmen left from Seattle to go to consult with the Alyeska officials, and one such businessman testified that a few coins were thrown on the desk, and the Alyeska official said, "Here is some money to help you get back to where you belong, we don't need you." That was one of the most sordid and disgusting chapters that we have had in recent years of an attitude toward minority business.

I cite that only to point out that there is a residual negative attitude already built in toward the Alaska-Canadian gasline simply because of the past performance of the private sector with reference to the pipeline, and it is going to take an enormous effort on your part to even begin to establish trust in your operation, trust on the part of minority business persons. You are going to have to struggle mightily to overcome.

In your testimony you pointed out the Northern Border Pipeline Co. and in all fairness I must say this: I have had more than one opportunity to meet with the principals involved in the construction of the gas line, and I must say in the meetings in Washington in my office, I was very, very encouraged by what appeared to be a much more positive attitude than had been demonstrated in connection with the construction of the pipeline.

I mention that only because of the Northern Border Pipeline Co., I have had an opportunity to meet with them. They have awarded 49 contracts, and 17 were awarded to minority business enterprises. On the surface, that looks excellent, almost 50 percent, better than 50 percent.

We always have to look at the dollar volume. One of the main criticisms that I hear from minority business is, sure, we will say we got 50 percent of all the contracts, but our 50 percent was made up of 50 $10,000 contracts, so what was the dollar volume of the 49 contracts that was awarded?

Mr. ALEXANDER. Congressman Mitchell, I just got this figure this morning. In fact, their total contract awards was $2 million were one-fifth of——

Mr. MITCHELL. That is on the 49 contracts totaled $2 million?

Mr. ALEXANDER. PGT, we are looking at the northern border. I am sorry, we had asked for that information to be available for this hearing, and it did not reach me. I will see that it is forwarded to your office in Washington when I return.

Mr. MITCHELL. I would appreciate it. You have no idea what the dollar volume was?

Mr. ALEXANDER. I had some experiences with the previous line, and I understand fully what you are saying about the number looking good and having 10 or 50, 10 or 5 thousand dollar awards and saying that we did 25 percent. We are going to be taking an awfully hard look at that type situation.

Mr. MITCHELL. OK. You do have some figures on the Pacific Gas Transmission.

Mr. ALEXANDER. Pacific Gas Transmission, they awarded $2 million contracts to date, one-fifth of that going to minority contractors. That, of course, means that I need further information when I

go back to the office to find out what is going on. I don't have a further breakdown as yet.

Mr. MITCHELL. Try to get it broken down more finely in terms of categories of minorities.

It is not a great secret that many heads of departments and bureau chiefs often crow with delight when they hire one black woman. They say, look, we have satisfied the female and the minority requirements.

I would like to see a categorical breakdown. You would be able to get me that?

Mr. ALEXANDER. The staff was working on it when I left. We will get you that information for all the sponsors, as well as the information for our own office.

We do also have an EEO program in-house and I would like to present all of that to your office.

Mr. MITCHELL. Is the money from the private sector all in place to proceed with the construction of the gasline?

Mr. MATHEWS. Not at all, sir.

Mr. MITCHELL. Quite a bit missing.

Mr. MATHEWS. There has been a preliminary agreement signed between the North Slope producers and the pipeline company that will enable $500 million of primarily design money to be used over the next year or 2.

In that agreement they also have agreed that they will devote their utmost efforts to developing a private financing agreement among those parties.

Mr. MITCHELL. OK, have you heard the rumor, because the package is not yet put together in the private sector, have you heard the rumor that there might be a move on the part of the principals to come in for some Federal guarantees?

Mr. MATHEWS. Yes, sir; that rumor has been going around for 5 and 6 years.

Mr. MITCHELL. Yes, it has. I would assume that the Federal guarantees will probably have to be approved through the Banking, Finance and Urban Affairs Committee of the House, I would guess, the same as we did on Chrysler. That came through the Banking Committee on which I serve.

Mr. MATHEWS. I am not at all an expert, sir.

Mr. MITCHELL. In the event that their contingency develops, I would like to get the word out that there are some of us on the Banking Committee who are intensely interested in minority involvement in the gasline.

Mr. MATHEWS. From my limited conversations, and I have been on board just a short time, my conversations with the sponsors on this, I feel like you, that their attitude is good in this area, and that they really mean what they say in promoting minority business enterprises and their own affirmative action plans.

We intend to keep on them, and I am sure considerations such as this are also in the back of their minds.

Mr. MITCHELL. That is excellent, because I am advantaged in a sense that I am on both the Banking and the Small Business Committees which allows me a sort of catalystic interest in firms with affirmative action programs and economic development.

Counsel, any questions?

Mr. CLARK. One question, Mr. Mathews. I have had discussions with some minority firms who have attempted to seek contracts under the gasline and one of the major problems that they seem to be facing is the inadequacy of ready cash or available financial assistance to put the financial aspect of their package together.

Is there anything being done at the present to assist minority firms to put the financial aspect of their package together? Most of them do have a very technical or their technical package is adequate, but they fall somewhat short on that financial package. Are prime contractors assisting in trying to provide some financial assistance to the minority contractors?

Mr. MATHEWS. This whole project and the contracting is just getting off the boards now. I don't believe anything has been done to date. Let me ask John if his constituents in Washington have brought up anything of that nature?

Mr. ALEXANDER. Let me try that by mentioning that the Department of Commerce in connection with our office has the two consulting firms, one on the eastern leg and one on the western leg.

The regulations require that the sponsors themselves institute their MBE/FBE programs, along with the EEO program.

To assist the sponsors and the minority businesses, the consultants were put into place, and Commerce could tell you more detail in that regard.

I am leading up to one facet at least with Pacific Gas Transmission, we specifically asked that question with regard to financing and bonding, and the consulting company or firm has made contact with the banks on that leg of the pipeline to see about assistance for minorities, minority female firms who may need this type of assistance, so that part of it is being done at that point. I am not sure exactly what stage they are at.

Mr. MITCHELL. I am sorry. I did have one other question, and it is purely a structural operational one.

Your title again?

Mr. ALEXANDER. Director of EEO with MBE.

Mr. MITCHELL. That means that you handle both employment and economic development?

Mr. ALEXANDER. Yes, and economic development. We have the MBE and EEO aspect of it.

Mr. MITCHELL. How large is your staff?

Mr. ALEXANDER. Myself and two others in Washington, and one person here in Alaska. I am not sure if there will be——

Mr. MITCHELL. Maybe four?

Mr. ALEXANDER. Maybe five.

Mr. MITCHELL. Maybe five?

Do you think that is adequate to handle both of these massive operations, equal opportunity for employment and equal opportunity for development?

Mr. ALEXANDER. So far I have not decided what we would need in my own mind as far as staffing is concerned to adequately do it. I can't say, I do keep a bag packed.

Mr. MITCHELL. I infer from your bag packed status, you will at least be looking for some more people. I am really quite serious.

Business of any type is complex, and you simply cannot use a straight EEOC person trained with that kind of background and

expect them to follow the intricacy of a business, and certainly you cannot expect a person with a business background who is in equal opportunity in economic development, to be able to do a massive job if the scope of the work is that big.

This is one of the largest projects that this Nation will have ever put on, and I just don't want to see the equal opportunity aspects, minority aspects sort of sabotaged because of an insufficiency of staff.

Mr. ALEXANDER. The one person, one of the persons that will be hired will be the person with the heavy MBE experience and background rather than heavy on the EEOC end of it.

Mr. MITCHELL. I am glad to hear that, because it has been one of the failings of most of the agencies. They have taken a very zealous EEOC type who worked hard in HEW maybe or Interior someplace and said, look, you are going to be in charge of minority entrepreneurship. In most instances they don't know the bottom line from another bottom line, and I think it hurts us significantly in terms of fostering a minority economic development. Keep me posted. I suppose he will keep you posted on problems which they might encounter in terms of adequacy, sufficiency of staffing.

Mr. MATHEWS. Yes, sir; we are feeling our way in all of these areas. We want to rely on the builders to do the majority of this, and if it appears they are doing an adequate job with our checking, that is fine. If it appears they need lots of prodding, I will need more people.

Mr. MITCHELL. Thank you very much, gentlemen.

Next we will take testimony from both Mr. Duffy and Mr. Brust. Mr. Duffy is the area manager for the Anchorage area office of HUD, and Mr. Brust is with the EPA.

TESTIMONY OF JOHN DUFFY, AREA MANAGER, ANCHORAGE AREA OFFICE, HUD

Mr. DUFFY. Thank you, Mr. Chairman. On behalf of the Anchorage Area Office of the Department, and also the Seattle Regional Office, welcome to Alaska.

I have with me two members of the Anchorage Area Office staff, Marlene Boberick, the director of Fair Housing and Equal Opportunity and the staff attorney, Pete Giere.

Also with me is a representative from the Seattle Regional Office of HUD, Mr. Monroe Watson, the director of Housing at the regional level.

We have submitted written testimony, as requested in your correspondence, so, therefore, I would just take the opportunity to touch on the highlights.

The written testimony included both the Department's position and commitment to minority business enterprises, and what it is doing at the national level and also the regional level offices.

I would like to take this opportunity just to highlight perhaps some of the things we have been making an effort to do, and some of the successes perhaps that have been accomplished in the State of Alaska and the Anchorage area office.

The Anchorage area has made notable progress in increasing the MBE share of the community development block grant programs

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and the housing programs. We have made substantial awards to minority businesses run by blacks and Native Alaskans.

For example, during the first 6 months of fiscal year 1980, the total minority business enterprise's share of the block grant program rose from 6.6 percent in fiscal 1979 to 11.2 percent. This represents 74 percent increase in minority business participation overall of fiscal year 1979.

During this period, six construction contracts were awarded totalling $243,300, and four service contracts totalling $212,800. We attribute this substantial progress to the Anchorage area office's initiative that required the inclusion of section 9 of OMB Circular A-102, attachment O, and a copy of that attachment is attached to the written documentation, sir.

During fiscal year 1979, MBE participation represented 51.3 percent of the housing program outlays totaling, the total amount was $19,639,000.

We awarded 42 service and construction contracts during this period. I have attached a more detailed breakdown of MBE funds to my written remarks.

During the first 6 months of fiscal 1980, MBE participated in housing programs, $852,500, activities generated during the closeout of the 1979 construction season.

As this construction season gets underway, it is anticipated that our MBE goals will be met in our housing programs.

The other major program activities is in the minority banking deposit program, sir, and just briefly in 1979, a total of $12,359,666 was on deposit by the area office's clients.

For the first 6 months of fiscal year 1980, a total of $3,995,199 has been deposited in the minority bank by the clients doing business with the agency here in Anchorage.

Our success in meeting the goals for this fiscal year does not overlook the fact that more needs to be done. We do not believe it is HUD's responsibility to merely meet goals or just fulfill the strict requirements of Public Law 95-507. We have an obligation to be innovative in our efforts to assist minority business.

This coming year we will be increasing our efforts with minority business in the State, and it is our goal to continue improving and devising methods that will increase MBE participation in HUD programs and create a more favorable climate for their success.

I would be happy to answer any questions.

[Mr. Duffy's prepared statement follows:]

PREPARED STATEMENT OF JOHN DUFFY, AREA MANAGER, ANCHORAGE AREA OFFICE, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman and members of the subcommittee, on behalf of the HUD regional and area offices, welcome to Alaska. I want to extend our appreciation to you for scheduling these hearings on how the Federal Government is meeting the needs of minority business in the State. We take our minority Business Enterprise Program seriously, and are trying our best to meet the ambitious goals set by the President and the Secretary to increase the involvement of minority business in every phase of HUD's operations.

The problems facing minority business in Alaska are probably not that much different than those in other states. While the minorities may differ somewhat in background, because of our State's large indigenous population, the impediments to obtaining capital and an opportunity to complete are just as difficult and challenging. In the past, government has not done enough to help bring minorities into the business mainstream. We are intent on making up the lost ground because a strong

business community, where everyone has the opportunity to share according to his or her capabilities, is not only good for business, it's good for the State.

Secretary Landrieu emphaized the Department's strong commitment to the full implementation of 95-507 in February when he announced an ambitious plan for fiscal year 1980 to increase substantially the involvement of minority business in HUD's programs. The Secretary asked each of his assistant secretaries to develop a comprehensive strategy to make every phase of the Department's programs open to minority business. In response, House, Community Planning and Develpment and other HUD offices are conducting an on-going study of their program's MBE potential, and trying to develop creative ways to attract minority business involvement. The Secretary's plan recognizes that identifying opportunities is not enough, and he has stressed the need for administrative flexibility and the development of a system that will track the Department's progress in achieving its MBE goals.

The Secretary has set specific targets for increasing minority businesses' share of the Department's direct procurement program, and has made it clear that he wants to obtain these goals this year. During fiscal year 1980, HUD and the Office of Federal Procurement Policy want to assure that minority business receive at least $33 million in direct procurement contracts. We are well on our way to achieving this spending level. As of June 30, 1980, we have spent $2.4 million in direct procurement and another $1.6 million is in the process of being obligated. Section 8 (A) contracts represent $1.7 million of this $4 million total. In additon, we have spent $13.3 million in procurement through our acquired property operation as of mid-year. Another $7 million is estimated to have been committed by June 30, for a total of $24 million. We feel that we are within striking distance of obtaining our $33 million goal, with $24 million spent thus far and an additional $8 million to go. We are confident that the remaining sum will be expended in the last quarter.

Here are several additional examples of what HUD is doing to increase minority business involvement. We have created a 1,000-unit MBE demonstation project that will channel about $6 million into minority business; we have awarded about $3 million toward our $8 million goal for the SBA 8(A) program, through our acquired property program; we have established priorty objectives for minority business participation in both our headquarters and regional operating plans. The Office of Housing has set a $425 million goal and the Office of Community Planning and Development has established a goal of $198 million for fiscal year 1980; pursuant to a Presidential directive, our principal staff and Regional Administrators were told on March 27, 1980 to include the achivevement of minority procurement goals as an element of the Executive Performance Appraisal System. An analysis of the mid-term review of the Executive Performance Appraisal System indicates that 46 percent of employees who completed the mid-term review included procurement goals as an element; and the Regional Administrators' Executive Performance Appraisal Systems are being revised to include as an objective an increase in Minority Business Participation in Federal and Federally Assisted Contracts (particularly in the grant programs).

The Department's commitment to attaining its minority business goals at the national level is just as strong at the regional and area office levels. The Anchorage Area Office has made noticeable progress in increasing the MBE's share of the Community Development Block Grant and Housing programs. We have made substantial awards to minority businesses run by Blacks, Hispanics, native Alaskans and women.

For example, during the first six months of fiscal year 1980, the total minority business enterpirse share of the CDBG program rose form 6.6 percent in fiscal year 1979 to 11.2 percent. This represents a 74 percent increase in MBE particpation over all of fiscal year 1979. During this period, we awarded 6 construction contracts totalling $243,300 and four service contracts totalling $212,800. We attribute this substantial progress to the Anchorage Area Office's initiative that requires the inclusion of Section 9 of OMB Circular A-102, Attachment 0, in all approval letters to program recipients. I have attached a copy of the pertinent language of my testimony.

During fiscal year 1979, MBE participation represented 51.3 percent of Housing program outlays, totalling $19,639,000. We awarded 42 service and construction contracts during this period. I have attached a more detailed breakdown of MBE funds to written remarks.

In addition to awarding contracts to minorities, the area office has encouraged firms doing business with HUD to utilize the States only minority-owned bank, which is run by Alaska natives. In support of the minority banking program, the Area Office, clients maintained during FY 1979 a total of $12,359,666 on deposit. This reflects a quarterly average of $3,089,917 or an average daily balance of $35,865. For the first six months of FY 80, a total of $3,995,199 has been deposited in

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the minority bank. This reflects a quarterly average of $1,997,600 or an average daily balance of $40,330.

Our success in meeting the goals for this fiscal year does not overlook the fact that more needs to be done. HUD does not believe that its responsibility is merely to meet goals or just to fulfill the strict requirements of P.L. 95–507. We have an obligation to be innovative and aggressive in our efforts to assist minority business. In the coming year, we will be increasing our efforts with minority business in the State. Our goal is to continue improving and devising methods that will increase Minority Business Enterprise participation in HUD programs and create a more favorable climate for their success.

I would be pleased to answer any questions that you may have at this point.

Attachment I.—Breakdown of MBE funds

I. Community development block grant:	
Fiscal year 1979 (12 months):	
Total program	$3,984,000
Total MBE	$262,700
Percent participation	6.6
Fiscal year 1980 (Oct. 1979 through March 1980):	
Total program	$4,084,000
Total MBE	$465,100
Percent participation	11.2
Construction: (4 contracts totalling $100,300 to black MBE's; 2 contracts totalling $143,000 to Alaska Native MBE's)	$243,300
Service: (1 contract totalling $24,800 to a black MBE; 3 contracts totalling $188,000 to Alaska Native MBE's)	$212,800
II. Housing:	
Fiscal year 1979 (12 months):	
Total program	$19,639,450
Total MBE	$10,080,500
Percent participation	51.3
Contruction:	
(30) Contracts to Alaska Native MBE's	$8,997,900
(9) Contracts to Hispanic MBE's	$752,900
(1) Contract to Alaska Native Female Enterprise	$69,300
(1) Contract to Black MBE	$60,400
Service:	
(1) Contract to Asian MBE	$200,000
Fiscal year 1980 (Oct. 1979 through March 1980):	
Total program	
Total MBE	$852,500
Percent participation	
Construction:	
(6) Contracts to Alaska Native MBE's	$272,600
(7) Contracts to Hispanic MBE's	$332,700
(1) Contract to Black MBE	$2,000
(3) Contracts to Female Alaska Native Business	$25,200
Service:	
(1) Contract to an Asian MBE	$220,000

ATTACHMENT II.—SECTION 9 OF OMB CIRCULAR A–102, ATTACHMENT 0

9. Contracting with Small and Minority Firms. Women's Business Enterprise and Labor Surplus Area Firms.

(a) It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

(1) Including qualified small and minority businesses on solicitation lists.

(2) Assuring that small and minority business are solicited whenever they are potential sources.

(3) When economically feasible, dividing totalling requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

(5) Using the service and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above.
(b) Grantees shall take similar appropriate affirmative action in support of women's business enterprises.
(c) Grantees are encouraged to procure goods and services from labor surplus areas.
(d) Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or Presidential direction.

Mr. MITCHELL. Thank you very much.

I have been very, very interested in the establishment of minority banks.

In 1971, we had an economic summit conference in Baltimore at which time we set a goal that in 5 years we would establish at least 50 minority banks. At that time there was only 19. We have exceeded that goal.

I insist that it is important for the Federal Government and people who do work with the Federal Government to make deposits in minority banks. That is going to help them grow. You have done this.

My question is, what is the nature of the money that is deposited? Would you consider it high velocity funds, payroll funds?

Mr. DUFFY. If I understand the question correctly, it basically is, within the Department, of course, our primary program activity is to provide grants or loans to housing authorities. Because moneys go through a local, independent agency, we encourage them to deposit money into the minority bank, it may be in the form of a grant to do a specific item, such as rehabilitate a structure. Typically loan moneys would be in there until it was drawn down, so it was not a payroll in that sense. There is an administrative policy to run the draw down program.

Mr. MITCHELL. That is where the problem might come. One of the reasons for making deposits in these minority banks is to give them some borrowing room; but if the funds which are deposited are withdrawn very rapidly, they have really no maneuvering room for borrowing.

So your suggestion to me is that most of this money would be grant money, and what other types?

Mr. DUFFY. Grant and housing, construction funds that would stay there until such time it was drawn out at the time necessary to meet the demands of the construction or local activity.

Mr. MITCHELL. I have only two other questions. One of the continuous complaints that we hear from minority businesses is we wish we did not have to do business with the Government.

It is not connected with redtape or anything like that. It is connected with the rate of repayment for the work done. Most minority businesses operate very close to capital limitations; and if they complete a major construction job for HUD and the final payment for that job is not realized until 6 months later or 9 months later, in many instances that delay is sufficient to almost cause the collapse of that minority business.

That, to your knowledge, has been the rate of repayment, the rate of payment, rather, to minority companies which have completed their contracts? Has it been in a timely fashion?

Mr. DUFFY. Overall; yes, sir.

Mr. MITCHELL. How would you define a timely fashion?

Mr. DUFFY. Three- to five-day processing; that is, given that the payment was acceptable; that is, the work that justified the payment was completed in an acceptable manner, that we would forward the request for payment to the Treasury Department for issuance from San Francisco. Again, overall, we have made substantial efforts to try and keep this moving. I am sure there are instances that could be horror stories, as you may well be aware of.

Mr. MITCHELL. I am not concerned about the isolated horror stories. That is amazing here in Anchorage you are managing to achieve about a 5-day processing. Your hands are clean after that point. If it is delayed for 6 months in some other office, that is their responsibility and not yours.

I would like to follow through on that with the regional offices, I have personal knowledge of at least three minority firms that have gone out of business, and the reason they went out is they did not get a timely payment, not here in Anchorage.

My last question, you have to sort of educate me. I am a stranger here. Is there a $3 million HUD project that is in the offing somewhere in Alaska?

Mr. DUFFY. There are several projects.

Mr. MITCHELL. Is there one in the amount of about $3 million for housing construction?

Mr. DUFFY. There is one here locally in Anchorage that the Alaska State Housing Authority, through financial assistance from this Department, has recently evaluated bids on in the amount of $2.8 million.

Mr. MITCHELL. How many units would that construct?

Mr. DUFFY. Fifty units and that includes the demolition of the existing building.

Mr. MITCHELL. Is that a project that came out of a community-based group here in Anchorage?

Mr. DUFFY. The project was previously in private hands and approximately 5 years ago, if this is the project you are referring to, 5 years ago, because of default on the payments by the mortgagee, the project was assigned to the Secretary, that is, the Secretary of Housing and Urban Development, HUD later became the owner for the property, and there was a disposition plan developed for it.

Mr. MITCHELL. This is not the owners'—the owners are not any kind of community-based organization. It is HUD itself?

Mr. DUFFY. No, at the present time. It was in HUD's ownership at one time. It is presently owned by the Alaska State Housing Authority.

Mr. MITCHELL. Did HUD take it over from a community-based organization?

Mr. DUFFY. No, sir; it was owned by an out-of-State firm.

Mr. MITCHELL. All right. It is now assigned to whom?

Mr. DUFFY. The Alaska State Housing Authority.

Mr. MITCHELL. Have they designated a contractor to complete this $3 million job?

Mr. DUFFY. They have requested proposals, and proposals have been submitted. I am not aware that they have executed a contract with anyone.

Mr. MITCHELL. Would you be aware of whether or not the local component has made any effort to secure minority business participation in this job?

Mr. DUFFY. The area office staff reviewed the proposals that were submitted. With the assistance of the Alaska State Housing Authority, all of the proposers made a commitment and a satisfactory commitment to the affirmative action minority business participation which was included in all of the proposals.

Mr. MITCHELL. How do you define satisfactory participation, roughly?

Mr. DUFFY. I believe the invitation to submit proposals was based on 25 percent minority participation in the overall project, and each one of the proposers that did submit a proposal included documentation on that.

Mr. MITCHELL. You could almost guarantee me that when that final proposal on the final contracts let for $3 million, there would be somewhere around 25 percent minority business participation in it?

Mr. DUFFY. It is our intention to monitor that, and say there has been more than 25 percent minority participation in that particular project.

Mr. MITCHELL. You ran into a slight semantical snag.

Mr. DUFFY. You asked me to guarantee. To the extent that I can, I would, sir.

Mr. MITCHELL. Suppose the local authorities go ahead and let a contract which is far removed from 25 percent minority involvement? What, if any role, could you play?

Mr. DUFFY. That is the problem with our regulations.

Mr. MITCHELL. That is nonresponsive.

Would you like to come up and explain that to me? That is not very responsive.

Ms. BOBERICK. The reason I make that statement, sir, the regulations give us no enforcement capability to do anything to a recipient who fails to meet their affirmative action goals. We can't provide set-asides or guarantee participation. We can ask for percentage participation, but we have nothing we can do to them if they don't.

Mr. MITCHELL. You have hit on a very important point. You can give very glowing goals and objectives; but if a local group decides to snub its nose at you, there is nothing you can do about it. They can tell you we are going to let it go for $3 million, and the hell with minorities, and you would have to say, OK.

Ms. BOBERICK. In this case I think they would be in violation of the contract. They all agreed that they would take steps to get 25 percent participation.

Mr. MITCHELL. The contract says that they would be shooting for 25 percent. Let's assume that they suddenly changed their mind, and say, no, we have changed our mind and said we are not going to fool around with 25 percent. What then, if anything, could you, or would you do?

Mr. DUFFY. What we could do would be that we would, as a part of all of these discussions, has been this substantial and ongoing minority business effort program in this particular project as has

already been reflected in the written testimony I have given you, sir.

What we would do, we would go to that agency in all good faith, say the commitment was made, now we are going to follow up on it. Legally what we could do so far as a contractor violating affirmative actions in the contract, I would have to look at it.

That commitment was made, in responding to the invitation to submit bids. Every firm that submitted a bid made the commitment for the 25 percent, and the public agency has gone on record that this is their policy. You are saying, if something happened the contractor thumbed his nose at that whole intent, legally would we stop the action which would deprive the necessary housing in the community, or stop the contract?

I don't know. From a legal point of view, I am not sure, sir.

Mr. MITCHELL. Counsel, do you have any comment on that?

Mr. CLARK. No, sir.

Mr. MITCHELL. OK, I would be really curious to find out about that.

You managed to get in a nice little statement to get in the much needed housing—and I smiled. I remember when we were pressing for school desegregation in the State of Maryland and the superintendent of schools, his wife said, "The only ones who will be hurt will be the poor little black children if you keep pressing on this."

Those poor little black children want to be warriors, and they are willing to bear a certain amount of the hurt. If indeed you need housing, some of us, some of the poor would be willing to suffer a little bit in terms of living under bad housing a little bit longer to assure there would be just and fair economic participation.

Thank you very much. You will let me know what your legal experts determine in this case?

Mr. DUFFY. Congressman, I will not only let you know what the legal people tell me, but I will let you know the outcome of the project.

TESTIMONY OF STAN BRUST, ENVIRONMENTAL ENGINEER, ENVIRONMENTAL PROTECTION AGENCY, ALASKA OPERATIONS OFFICE

Mr. BRUST. I am pleased to be here to indicate——

Mr. MITCHELL. Pull the mike toward you.

Mr. BRUST. I will just highlight, you have copies of my testimony before you.

Mr. MITCHELL. Yes.

Mr. BRUST. I will highlight those elements which may be most important.

EPA is responsible for implementing the title VI provisions of the Civil Rights Act of 1964 as amended. EPA's minority business enterprise program has been active for almost 7 years.

As part of its minority business enterprise program, EPA region X maintains a roster of minority businesses in the region, including Alaska. Two copies are attached to this testimony.

In order for a minority firm to be included on this roster, the minority firm must forward to EPA specific information about the minority firm which allows EPA to certify the firm as a minority business enterprise. Once certified, the MBE is listed on the roster

of minority businesses in the region. The roster is then provided to all EPA grantees, contractors, and consultants.

This roster of minority businesses was also provided to the municipality of Anchorage to enable the city to update its directory referenced "Minority and Female Enterprises in the municipality of Anchorage."

All solicitation for bids over $10,000 must contain the EEO specification insert. Two copies are attached to this testimony. This EEO specification insert contains information which notifies interested bidders of the EPA minority business requirements.

As another example of what EPA is doing for minority businesses in Alaska, I would like to cite for you some statistics on the dollar amounts in the construction grants program that have been committed to MBE's in Alaska during the first 9 months of fiscal year 1980.

After that I will also cite for you some overall construction grant program statistics for region X as a whole. The latter statistics cover the time period, January 1, 1978 through March 31, 1980.

In Alaska, the total architectural and engineering and construction contracts that were granted approximated $27 million. Of these, the amount going to minority construction and engineering contractors included about $4½ million. This represents a 17-percent minority business involvement. To break that down to the number of minority businesses that were awarded contracts, this totals 21. A breakdown of those further by types indicate that 9 went to black minority businesses; two to Hispanics, six went to Asian Americans, two went to American Indians, and two went to Alaska Native minority businesses.

The types of work varied from engineering to general construction work, including excavation, concrete, supplies, electrical, trucking, and painting work.

For region X as a whole, there was a total of $401 million that went out in that time period in grants of which about $73 million went to minority businesses. This represents about 18.2 percent of that total.

This concludes my prepared remarks, and I will be happy to respond to any questions that you have at this time.

Mr. MITCHELL. Thank you very much. You deal primarily with architectural and engineering and construction contracts. Any other kinds of contracts?

Mr. BRUST. No, these are the three that we are mainly involved in. We have 208 planning.

Mr. MITCHELL. What is 208 planning?

Mr. BRUST. Water quality, and it deals mainly with the planning aspects of water quality, nonpoint sources, urban runoff, snow melt, and the dollar amounts of these are much smaller than our construction grants program; but the same MBE and EEO requirements do apply there also.

Mr. MITCHELL. No other forms of grants. They are to cover all that you let?

Mr. BRUST. We do have grants, program support grants to the State department of environmental conservation in the field of pesticides programs, solid waste programs, and also water programs. The dollar amounts of these are approximately $35,000 for

solid waste, and I believe $50,000 for pesticides, and to the best of my recollection about $150,000 for water grants.

Mr. MITCHELL. Have there been any local repercussions based upon the "achievements" that you have made, that is 17 percent, fiscal year 1979?

Mr. BRUST. This covered the time period of January through March.

Mr. MITCHELL. Of this year?

Mr. BRUST. Right.

Mr. MITCHELL. Have there been any little local rumblings, they are getting it all, and we are excluded?

Mr. BRUST. I personally haven't had any.

I believe the EPA's commitment to minority business is unquestioned. We have had several workshops and seminars pertaining to that specific subject, and I think that EPA, perhaps more so than any other Federal agency, because of the massive amount of our public works program, their responsibility for this particular preference.

Mr. MITCHELL. What will be the total dollar volume of your grants and construction contracts for the entire fiscal year?

Mr. BRUST. Since Public Law 92-500 was first passed in 1972, the total amount of construction grants authorized at that time was $18 billion throughout the country.

Mr. MITCHELL. No.

Mr. BRUST. Alaska has been running approximately $25 million a year, and we expect this to be a continuing amount.

Of course, now for 1981, these funds have been frozen to the amount of $20 million, but we have just had a release of $4½ million dollars which we can now use.

Mr. MITCHELL. Any questions?

Mr. CLARK. Do I understand you correctly to say that you do not, do you do any direct procurement activity?

Mr. BRUST. No, not in Alaska. We only have a very small office to channel administrative work, so most of our procurement is handled through our regional office in Seattle.

Mr. CLARK. Is there anyone in your Alaska office responsible for MBE activities?

Mr. BRUST. Yes, in my function as the construction grant coordinator, I deal with that, and that is one of my primary functions.

Mr. CLARK. OK, thank you.

Mr. MITCHELL. Just one last question from me. I hate to be an old nitpicking bureaucratic Congressman but could you give me a little finer number, breakdown by minority group status, and do it on a dollar figure? Black MBE's have got nine of the contracts; Hispanics, two; Asian Americans, six. That is the breakdown on those $5 million, or $4.5 million.

Mr. BRUST. That is correct.

Mr. MITCHELL. Could you put a dollar figure along those figures?

Mr. BRUST. I will get that information today and supply it to you.

Mr. MITCHELL. I would appreciate it if you forgive me for being so very difficult, but as I said yesterday, if you live long enough, you develop a kind of paranoia when you are a black or minority, but I would like to have all the data right at hand, so if you could

give me the dollar breakdown with reference to each of those five categories, I would be most appreciative. Thank you very much.

[Mr. Brust's prepared statement follows:]

PREPARED STATEMENT OF STAN BRUST, ENVIRONMENTAL AGENCY, ALASKA PROTECTION AGENCY, ALASKA OPERATIONS OFFICE

Mr. Chairman, I am pleased to be here to convey to the committee what EPA is doing for small businesses in Alaska. EPA is responsible for implementing, in part, the Title VI provisions of the Civil Rights Act of 1964, as amended. EPA's Minority Business Enterprise Program has been active for almost seven (7) years.

Prior to developing our current Minority Business Enterprise Program we found that there were three basic reasons that, in affect, prevented small businesses from completing successfully for a fair share of the work performed under EPA grants program. The three primary reasons were as follows:

1. Low MBE participation in contracts, subcontracts and purchase orders under EPA's construction grants program in the past;

2. The past low MBE representation is the result of a number of causes including the effects of discrimination; and

3. Past methods to remedy the underutilization of MBE's were not effective.

To minimize and/or to eliminate the above conditions, we developed our Minority Business Enterprise Program which encourages increased participation of minority business enterprises (MBE's) in the supply of goods and services in work performed under the EPA grants program contained in Title II of the Clean Water Act of 1977 (PL 95-217). A goal-oriented was developed by EPA to maximize MBE participation. Goals of 10 to 25 percent minority business enterprise participation were set. We at EPA are very proud of our Minority Business Enterprise Program and the success we have had in the State of Alaska as well as in the balance of Region 10.

Now we are adopting our new goals for the utilization of minority consultants and consultation contractors in the four stages of Region 10: Alaska, Idaho, Oregon, and Washington. The new goals were developed through public participation. The goals were developed at the request of the EPA adminstrator who directed all regions to revise their previously published policy for utilization of minority construction contracts to reflect the recommendations made by the intra-agency task force on the utilization of MBE's. The goal-oriented system currently in operation and the proposed goal we are in the process of implementing should enable EPA to overcome the primary reasons I have already mentioned.

EPA is establishing, based upon input from the public hearing held in the four Region 10 states, including Alaska, a varying goal to meet positive efforts for including minority business enterprises in federally funded programs. It is the grantee's responsibility to assure that as many minority business enterprises as possible are included in EPA's grant funded projects to reach positive affirmative efforts. While a core goal of 13 of 15 percent is generally sought on all projects by EPA, a goal is established within a 8 to 20 percent range for projects of various sizes and in various locations to provide greater flexibility.

The results of EPA's MBE program have been most encouraging and I would at this time like to share with the committee the success of our MBE program.

As part of its minority business enterprise program, EPA Region X maintains a roster of minority businesses in the Region, including Alaska. Two copies are attached to this testimony. In order for a minority firm to be included on this roster, the minority firm must forward to EPA specific information about the minority firm which allows EPA to certify the firm as a "Minority Business Enterprise". Once certified, the MBE is listed on the roster of minority businesses in the Region. The roster is then provided to all EPA grantees, contractors, and consultants. The roster of minority businesses was also provided to the Municipality of Anchorage to enable the City to update its directory referenced "Minority and Female Enterprise in the Municipality of Anchorage."

All solicitations for bids over $10,000 must contain the EEO Specification Insert. Two copies are attached to this testimony. This EEO Specification Insert contains information which notifies interested bidders of the EPA minority business requirements.

As another example of what EPA is doing for minority businesses in Alaska. I would like to cite for you some statistics on the dollar in the construction grants program that have been committed to MBE's in Alaska during the first 9 months of Fiscal Year 1980. I will also cite for you some overall construction grant program statistics for Region X as a whole. The latter statistics cover the time period, January 1, 1978 through March 31, 1980.

Overall Percentage Totals for MBE's: Alaska:

(a) Total architectural and engineering and construction contracts	$26,985,942
(b) Total architectural and engineering and construction minority contracts	$4,595,468
(c) Combined percentage of minority architectural and engineering and construction contracts	17.0
(d) Number of MBE's awarded contracts	21
Breakdown of minority group status:	
Black MBE's	9
Hispanic MBE's	2
Asian American MBE's	6
American Indian MBE's	2
Alaska Native MBE's	2

(e) Type of minority contracts: excavation, concrete work, supplies, electrical work, trucking, painting work, and architectural and engineering and construction contracts awarded to Minority Business Enterprises, 17.0% exceeds the core goal of 13 to 15 percent which EPA seeks on all waste water projects.

The overall Region X percentage totals for Minority Business Enterprises for the time period January 1, 1978 through March 31, 1980 are also as impressive as the figures I have already provided you for the State of Alaska.

Overall percentage total for MBE's: Region X:

(a) Total architectural and engineering and construction contracts	$401,239,000
(b) Total architectural and engineering and construction minority contracts	72,828,000
(c) Combined percentage of minority architectural and engineering and construction contracts	18.2

As in the case of the State of Alaska, the overall Region X core goal of 13 to 15 percent MBE contract dollar participation was exceeded by 21.3 percent. We are very proud of EPA's record of MBE participation and believe it demonstrates EPA's compliance with the requirements of Section 211 of Public Law 95-507, as amended, regarding utilization of small business concerns and concerns controlled by socially and ecomomically disadvantaged individuals.

This concludes by prepared remarks. I will be happy to respond to any questions you may have at this time.

ADDENDUM TO STATEMENT OF STAN BRUST, ENVIRONMENTAL PROTECTION AGENCY, ALASKA OPERATIONS OFFICE

SHOWING DOLLAR BREAKDOWN OF CONTRACTS AWARDED TO DIFFERENT CATEGORIES OF MBE's IN ALASKA

Category of MBE's	Number of contracts	Dollar amount of contracts	Percent of total
Black	9	1,028,870	22
Hispanic	2	55,000	1
Asian American	6	3,161,398	69
American Indian	2	28,000	1
Alaska Native	2	322,200	7
Totals	21	4,595,468	100

Mr. MITCHELL. We have concluded the first segment. It is now 11:40 a.m.

I would suggest we break for lunch and resume at 1:30 p.m., and the order of business would probably be as follows: We will have the Small Business Administration lead off at 1:30 p.m.

Mr. COX. Yes, sir.

Mr. MITCHELL. Following that, we would have the Department of Commerce, is Mr. Carpenter here?

Mr. CARPENTER. Yes.

Mr. MITCHELL. Following that the Department of Energy, do we have a representative here, and the Department of Interior representative here?

[No response.]

Mr. MITCHELL. I assume that Interior will get here.

Let's let the committee hearings stand in recess until 1:30 p.m. at which time Mr. Cox will be our leadoff witness.

[Whereupon, at 11:42 a.m., the task force was recessed, to resume at 1:30 p.m., the same day.]

AFTERNOON SESSION

Mr. MITCHELL. The hearing will now resume. We are 4 minutes late getting started.

There are two items that we have to take care of before we start hearing the next set of witnesses.

The first is that Senator Stevens has asked me to convey to all of you who are interested in minority business his intense interest in the hearings that we are having and his regret that he cannot be here.

I anticipate that as a result of these hearings there will be a staff task force made up of members of the staff of the Alaskan congressional delegation and my staff who will attempt to stay on top of these issues until some of the problems are resolved. That is the Senator's message, and I am delighted to convey that to you.

Second, is there anyone here still from HUD? Could you make a call to get someone back from the HUD office?

The reason I am doing that, we discussed a HUD project, and at the time it was discussed earlier today, I was advised by the HUD officials that this particular HUD project had not yet been awarded. I have now learned that it has been awarded and I wanted to raise some questions. So when someone from HUD comes back, we will take that up.

We will resume the regular order of hearings, and Mr. Cox of the Small Business Administration was to be our leadoff witness, and Mr. Gilliland from the Department of Interior, and Mr. Carpenter from the Department of Commerce.

If you gentlemen could come up and we will take your testimony now.

I thank you for taking time from your very busy schedules to be here. We have copies of your testimony in most instances. The entire testimony will be submitted for the record. If you so desire, you can highlight your testimony.

Mr. Cox, it is all yours.

TESTIMONY OF FRANK COX, SMALL BUSINESS ADMINISTRATION, DISTRICT DIRECTOR, ANCHORAGE; ACCOMPANIED BY ALLEN WILLIAMS, ASSISTANT DEPUTY DISTRICT DIRECTOR, MINORITY SMALL BUSINESS, AND LARRY C. GOURLIE, REGIONAL DIRECTOR

Mr. Cox. I have Larry Gourlie who is the regional administrator with me to my right. To my left is Allen Williams who is the assistant director for minority business.

Mr. Chairman, I am Frank Cox, district director, Anchorage District Office of the Small Business Administration. It is a pleas-

ure for me to appear before you to review the efforts that we have made to assist minority-owned enterprises in the State of Alaska.

At the outset, I would like to affirm my personal commitment to utilizing whatever resources we have available to promote the development, growth, and financial success of enterprises owned and controlled by individuals determined to be socially and economically disadvantaged. The ultimate success of our efforts will depend, no doubt, upon how effectively we are able to direct our limited resources to those opportunities that offer the greatest potential for economic viability.

The State of Alaska encompasses an area of 586,000 square miles with a total population of approximately 300,000—1970 Census. This population is largely concentrated in the cities of Anchorage, Ketchikan, Juneau, and Fairbanks, with Anchorage representing approximately 50 percent of the population. According to the best available information, the ethnic composition of the population is as follows:

Caucasians, 78.9 percent; Eskimo, Indian, Aleut, 16.9 percent; Black, 2.9 percent; Other Minorities, 1.3 percent.

To service this population the Anchorage district office has a staff of 31 people assigned as follows:

Administration, 6; Financial Assistance, 14; Management Assistance, 4; Minority Small Business 8(a), 4; and Legal, 3.

Consistent with the national objectives of the Small Business Administration, the Anchorage district office has followed a policy of giving priority consideration to ethnic minorities in extending the full range of our services including financial, management, and procurement 8(a) assistance. Detailed statistics pertaining to assistance provided by these programs are appended.

Mr. Chairman, I would like to now respond to the specific items of interest outlined in your letter of invitation.

First, steps taken to assist minority businesses to gain 8(a) certification.

From the beginning of the 8(a) program in 1972, an ongoing outreach effort has been conducted to acquaint the minority community with the 8(a) program. Working relationships have been maintained with various business and ethnic organizations throughout Alaska. The MSB/COD staff provides one-on-one counseling to any interested minority person and when appropriate, refers applicants to other organizations such as the Alaska Business Development Center for more in-depth assistance as would be involved in the preparation of detailed business plans.

Second, the number of MBE firms certified as 8(a) since October 24, 1978.

Since that date, 11 firms have received 8(a) certification. During the same period, 10 firms were denied approval by the central office for a variety of reasons. I also might add we have an additional 8 firms in the works right now.

Third, a statistical analysis of the type of firms in the 8(a) portfolio from Alaska.

The current portfolio contains 27 active 8(a) firms of which 18 are in construction, 6 are engaged in nonprofessional services, and 3 are architects and/or engineers.

Fourth, steps taken to provide management and technical assistance to socially and economically disadvantaged firms.

Since October 1978, management assistance personnel conducted 2,771 individual counseling actions. Of these, 885 or 32 percent were with minority clients. During the same period, of 5,729 attendees in 171 training courses and seminars, 1,042 or 17 percent were minorities. In addition, 11, 7j task orders were issued to provide professional consulting services to minority firms.

Fifth, steps taken to insure subcontracting opportunities under Public Law 95-507 for socially and economically disadvantaged firms.

The three major procuring installations—that is, Alaskan Air Command, Alaska District Corp of Engineers, and Fort Richardson—are monitored on a quarterly basis by the regional procurement center representative to ensure that the subcontracting provisions of Public Law 95-507 are properly implemented.

Upon notification that a contract requiring a subcontracting plan has been awarded, the SBA regional subcontracting specialist schedules a compliance review of the contractor. Two such contracts have been identified in Alaska for which reviews are being scheduled.

Additional steps include a special effort to register all minority firms in the PASS source system; preparation and distribution of a list of minority organizations and directories as an aid to prime contractors in identifying minority-owned businesses; and providing a list of large contract awards to minority business organizations.

Sixth, number and dollar amount of guaranteed loans to minority firms in Alaska since October 24, 1978.

Since that date, 12 guaranteed loans totaling $884,000 have been made to 12 minority firms. Because commercial bank loan applications do not identify minority status, it is reasonable to assume that the actual number of guaranteed loans to minorities is greater than our records indicate.

Mr. Chairman, the above-mentioned activities by the SBA are an indication of the positive efforts being made by the Anchorage district office to promote greater opportunity for minority participation in our free enterprise system.

This concludes my statement and I will be pleased to answer any questions you may have.

Mr. MITCHELL. Thank you very much for your statement and for taking the time to be here.

How long have you been the district director?

Mr. COX. Ten years.

Mr. MITCHELL. Mr. Cox, why do you feel that there are so few 8(a) certifications in this district as compared with other districts?

Mr. COX. On a per capita basis, we have more 8(a) firms than any other district in the Nation.

Mr. MITCHELL. Are you sure of that?

Mr. COX. I am fairly sure of that.

I will get that information and get back to you.

Mr. MITCHELL. I was looking at the figures from Minnesota where there is a very small black population, and as I recall, they have a much higher 8(a) certification than you have and that would be based on per capita.

Would you get that information?

Mr. Cox. I would not compare us to Minnesota. Yes, we will get that information.

Mr. MITCHELL. All right.

Something your staff wants to add?

Mr. WILLIAMS. Yes.

We have a ceiling of 34, 8(a) companies and to date we have somewhere like 30 or 32.

The ceiling has been imposed by our central office back in Washington, D.C.

Mr. MITCHELL. When was that ceiling imposed?

Mr. WILLIAMS. It is part of our regional operating plan.

Mr. MITCHELL. When was the regional operating plan put into effect?

Mr. WILLIAMS. About a yea. ago this time.

Mr. MITCHELL. That would be of little or no relationship to the lack of certification prior to that time, would it?

Mr. WILLIAMS. No, sir.

Mr. MITCHELL. Mr. Cox, what is the normal length of time that it takes you to process an 8(a) application?

Mr. Cox. Well, that mainly depends on how long the district office would take to process it. It would depend mainly upon how good the application was prepared by the client.

Mr. MITCHELL. Let's assume that the application was prepared with assistance from your office, and one would assume that it would be in pretty good shape. Let's assume the best case possibility. How long might it take you to process that?

Mr. Cox. Maybe 10 or 15 days.

Mr. MITCHELL. Have you had any experience at all of persons saying it has taken as long as a year, 1½ years——

Mr. Cox. We have some.

Mr. MITCHELL. If I may please finish the question, have you had any experience of persons saying that they have had as much as a year, 1½ years, 2 years before they have gotten certification?

Mr. Cox. Absolutely.

Mr. MITCHELL. What is the reason for that?

Mr. Cox. They probably would not provide us with very good financial information, if any, and then they may be turned down in Washington, D.C. By the way, we don't approve anything. We process it, and send it on. Washington, D.C., has the only approval authority on this.

Mr. MITCHELL. I understand. I am zeroing in on the functions of your office. You are saying par for the course would be 5 to 10 days that you would complete your district office work?

Mr. Cox. If it comes to us complete, yes.

Mr. MITCHELL. To the best of your knowledge, if a person is certified as 8(a), there should be a reasonable expectation that they would get some contracts under the 8(a)?

Mr. Cox. Yes.

Mr. MITCHELL. In testimony yesterday we heard from a Mr. George Williams whom I don't know who was allegedly certified as 8(a) in 1969 who further indicates that since that time he has never received a contract. That is an unusual circumstance?

Mr. Cox. I don't think that I am really at liberty to discuss an individual, and we would rather not. We would reply in writing to that.

To the best of my knowledge, we have never had this person certified as an 8(a) contractor.

Mr. MITCHELL. To the best of your knowledge, has there ever been any person certified as an 8(a) contractor who has never gotten a contract?

Mr. Cox. None that I know of.

I do know Mr. George Williams, but he has never been an 8(a) contractor.

Mr. MITCHELL. Putting Mr. Williams aside for just a moment, the staff is in agreement that every person who has gotten an 8(a) certification from your office has gotten at least one contract?

Mr. Cox. We will check that, yes, and we will let you know.

Mr. MITCHELL. You don't have knowledge right now that that is true or not true?

Mr. Cox. I have no knowledge that that is true.

Mr. MITCHELL. What has your agency done to familiarize the other agencies of the Federal Government with the provisions of Public Law 95-507? You are the linchpin, the key agency in Public Law 95-507. Because you are, I would assume that you would play that major pivotal role in educating the other Federal agencies about the law.

What has been your procedure on this?

Mr. Cox. Well, we have contacted all other Federal agencies concerning this public law. They explained it to us as much as we have explained it to them, but we have contacted them.

Mr. MITCHELL. Well, I am a little bit confused. What does contact mean?

Mr. Cox. We have a member of the MBOC, Mr. Williams, on our staff. And he has been in contact with the Federal agencies. I have been in contact with them.

Mr. MITCHELL. Then you have not followed a procedure such as might have occurred in Atlanta where the SBA office said, look, we are charged with the mandate of implementing this program and we are going to make sure that all of our sister or brother agencies know exactly what Public Law 95-507 is about. You have not done that?

Mr. Cox. I am not familiar with what they did in Atlanta, no.

Mr. MITCHELL. All right, but you have been in contact with them on the law?

Mr. Cox. Right.

Mr. MITCHELL. Through the MBOC program?

Mr. Cox. Right, and other means.

Mr. MITCHELL. What other means?

Mr. Cox. Over the telephone, different public meetings.

Mr. MITCHELL. We have heard some testimony which would indicate that some of the Federal agencies have advised people that they didn't know Public Law 95-507 was in existence.

If that is true, then would you say that your efforts in terms of notifying the other agencies have been successful?

Mr. Cox. I can't speak for the other agencies, no.

Mr. MITCHELL. I am asking you to speak to your efforts vis-a-vis the other agencies. If they say we just don't know about it, would you then say what you have done in the key agency?

Mr. Cox. I can't speak for the other agencies.

Mr. MITCHELL. The question is, you are the key agency in implementing this law. You had indicated that you had been in contact with the other agencies. If a situation arises where a person in another agency or the agency might say, we don't even know what Public Law 95–507 is, do you feel your educational responsibilities under the law have been fulfilled properly?

Mr. Cox. I think we have been fulfilling the function properly, yes. I don't know that everybody in that other agency is going to know about the law, and that is the question you asked.

Mr. MITCHELL. No, that is not quite the question I asked.

Mr. Cox. OK.

Mr. MITCHELL. The question I asked was very simply, if there is an agency that does not know about the implementation of it or what the basics of it are, what is your responsibility vis-a-vis that agency, and you have answered by saying you think you have met your responsibility.

Mr. Cox. If there is an agency that contacts us, or you tell us that one that does not know of this law, we would be glad to contact them immediately and educate them.

Mr. MITCHELL. That would be fine. I think we would like you to do that.

Mr. Cox. OK.

Mr. MITCHELL. What has been the, if any, the SBA's involvement with Husky?

Mr. Cox. With Husky Oil?

Mr. MITCHELL. Yes.

Mr. Cox. We have made them aware of the PASS system. I personally have had several conversations with them concerning procurement for minority small businesses. Part of my crew has had other contacts with them. We have made some solicitations on behalf of Husky for some contracts in their drilling efforts on the North Slope, on the pet 4. Is this what you are saying?

Mr. MITCHELL. Yes. That is an ongoing relationship?

Mr. Cox. Well, I have not been in contact with them for some time.

Mr. MITCHELL. Agency to agency ongoing?

Mr. WILLIAMS. Can I answer that?

Husky does try to provide us with contracts. They use us as a vehicle for advertising these contracts to other minority companies and agencies sometimes, and so we do. We call up the people that we know, and we do mail these out or put it on our board so when contractors do come in they are able to see that Husky is soliticing a bid.

Mr. MITCHELL. May I have your name again, please?

Mr. WILLIAMS. My name is Allen Williams.

Mr. MITCHELL. Mr. Williams, in your opinion, do you feel that Husky has done a creditable job in the involvement of minority businesses?

Mr. WILLIAMS. I really can't speak to that because I don't really work for Husky. I am not sure what their requirements are, what-

ever. All I know is that there is word out on the street about SBA. There is word out on the street about all kinds of agencies, but I really can't give you an answer one way or the other on it, on Husky Oil.

Mr. MITCHELL. I think one of the problems that I am confronting is how you perceive SBA to function. Certainly it is the provider of services and technical assistance, but integral to the SBA mandate is the advocacy function where it functions as an advocate for minority business, and as a part of that advocacy function it would seem to me that whatever occurs in this area, SBA ought to be in the vanguard in trying to secure significant minority involvement, even though it might not be mandated under the law. It would be mandated under your broad advocacy function.

Would you agree with that?

Mr. WILIAMS. Yes, I understand what you are saying. This was part of the old MSB function under the MAR where we did go out and advocate for the minority business persons, but I would say the way that I perceive it, the priority of the agency has shifted from the advocate and from the minority small business because due to lack of funds, and we are now heavily into what you authorized, the Public Law 95-507, so most of our time is taken trying to develop 8(a), trying to see that the requirements are met.

Mr. MITCHELL. The mandate under Public Law 95-507 is in no way juxtaposed with your original mandate to be an advocate, is it?

Mr. WILLIAMS. No, no, we still have the same staff, but with the concentrations heavily into procurement, and it takes time and lots of time and lots of staff work.

Mr. MITCHELL. The lack of sufficient number of staff is what has diminished your advocacy role?

Mr. WILLIAMS. Central office is aware of this, and they say there is nothing they can do because of the imposition of the freeze.

Mr. MITCHELL. All right.

Mr. Cox, do you feel that the banking industry in Alaska has been generally supportive of the minority business efforts?

Mr. COX. Yes, I feel they have.

Mr. MITCHELL. Your feeling, you are getting maximum or good cooperation in terms of the 90-percent guaranteed participation loans?

Mr. COX. I don't know whether we are getting maximum, but good cooperation.

We have had a bad year the last 1½ years because of the economic situation, but in the previous years, yes, we have had recordmaking years.

Mr. MITCHELL. Prior to that, the banks have been cooperative in terms of the 90-percent guarantee loan?

Mr. COX. Yes.

Mr. MITCHELL. Would you know offhand whether any of the personnel in your district office came out of a banking career?

Mr. COX. Yes.

Mr. MITCHELL. How large is your district office staff?

Mr. COX. We have 29 people.

Mr. MITCHELL. Could you hazard a guess as to how many of those have a banking background?

Mr. COX. Background?

Mr. MITCHELL. Yes.

Mr. COX. Right at the present time only three.

Mr. MITCHELL. Three? I don't know whether there has been turnover in your district office or not, only you can answer that. But if there has been turnover and it has involved people with a banking background, have those people when they left the agency gone back into banking, would you know?

Mr. COX. We have had one person leave us that went into banking, yes.

Mr. MITCHELL. Did that person come out of banking, to the best of your knowledge?

Mr. COX. Well, I hired him out of SBA out of a disaster program, and he worked for us for about 60 or 90 days, and was offered a better job with the bank and went with the bank. He happens to be a minority, by the way.

Mr. MITCHELL. It doesn't matter. He went with the bank. Did he ever come back with you?

Mr. COX. No. I am not sure. You mean come back to us with packages?

Mr. MITCHELL. No, come back as an employee?

Mr. COX. No.

Mr. MITCHELL. OK. How would you respond to an almost continuously voiced theme which says, in effect, in many instances SBA has been beneficial in getting minority businesses started and helping them to grow to a certain point, but once they reach a certain point, then their contracts, the efforts on their behalf significantly diminish.

I cite by way of illustration one person who testified yesterday who indicated that from 1972 to 1977 he received somewhere between 12 or 13 contracts, and then beginning in 1977 the number dropped off significantly to about 50 percent. He received 5 to 7 between 1977 and 1980, the present time. Others have voiced a similar theme.

What would your response be to that?

Mr. COX. Well, I would have to know much more than what you are telling me about it. I am assuming, I think, I know the one contractor that you are speaking of. The problem there is that he ran his business in such a manner that he could no longer get bonding to do jobs.

Mr. MITCHELL. Well, if it is the one contractor that I am thinking about, the bonding problem became confused with another business that he was involved in, but be that as it may.

Apart from that one individual, this was a fairly recurring theme yesterday, and if it were just one case, I wouldn't be concerned about it. It went something like this: They will only permit you to grow to a certain extent and then you are stopped.

Is there any scintilla of truth in that?

Mr. COX. Not that I am aware of.

Mr. MITCHELL. How do you explain this pervasive theme that we heard allday yesterday? Is it a figment of the imagination?

Mr. COX. OK.

Mr. MITCHELL. OK what?

Mr. COX. I was agreeing. I don't know how to respond to that.

Mr. MITCHELL. You don't know how to explain it?

Mr. Cox. I didn't say that. I don't know how to respond to it.

Mr. MITCHELL. OK. Well, that was one of the things that we heard yesterday which was really of a great deal of concern to me.

Mr. Cox. Well, that concerns me, too.

Mr. MITCHELL. I would think you would want to look into it because let's assume that you suddenly become the best SBA district office in the whole United States.

Mr. Cox. I can respond to that. We are.

Mr. MITCHELL. I am not asking you to respond to that until I finish my statement. You are not by a long shot in my opinion, but let's assume by some miraculous process you might become the very best in the country. You would still face the enormous problem of a climate that would fail to give you credit, even though you have done exceedingly well, and I would think as an administrator you would be very, very concerned about that. That is essentially good public relations, and any agency wants good PR, and I would suggest you might want to take a look at that, why that same theme over and over again like a broken record.

Equally disturbing to me was the second common theme that occurred not only in testimony yesterday but in notes that were passed in the audience, and that common theme was a fear of retaliation, fear that if they came here to testify there would be some retaliation, fear that if they made any statements at all, the theme was, I know that I am finished, I will never get a SBA loan again. I will never get any help, but I had to come and talk.

How do you explain that?

Mr. Cox. I wouldn't know how to explain it.

Mr. MITCHELL. Don't you think there is anything wrong in your agency that might have induced that kind of climate?

Mr. Cox. I don't believe it is within the agency, no.

Mr. MITCHELL. What might be the source? Do you have any idea? You are an administrator of an office and you would not have been an administrator for 10 years if you didn't have some sense of the pulse of the public, you know. I have to do it. Every administrator does. And I would just be curious as to whether that kind of capability of sensing, what your alleged constituency is feeling, why you have not heard this, or if you have heard it, why you have not taken the time to make a sort of analysis of what is causing this kind of negative reaction, but you have not done that?

Mr. Cox. Yes, we have.

Mr. MITCHELL. You have. What did you do in connection with that? What exactly did you do in terms of your analysis as to why there is this negative reaction?

Mr. Cox. We tried to perform in our office in a manner that would try to eliminate that.

Mr. MITCHELL. Other than that, what else have you done?

Mr. Cox. We have established a very good lending as far as lending, as far as the 8(a) program, as far as aiding and abetting the minority program to enter into the business programs within Alaska.

We have been more successful than most other districts in the United States, if not more successful.

Mr. MITCHELL. Well, we have already had our point of disagreement on that.

Mr. Cox. That is the reason I provided the numbers for you.

Mr. MITCHELL. That is the reason the numbers that you have provided for me have not dispelled my concern.

Let me shift to another area for just a moment, if I may.

Under Public Law 95-507 and the general interest of the Government in minority business, we heard testimony this morning from the Corps of Engineers and other people that they have offered substantial contracts, offerings to SBA for minority businesses.

In one instance there was a total offering of almost $7 million. Of that, approximately a little better than $1 million was actually left to minority contractors. When I questioned the other agencies, they said it is the inability of the Small Business Administration to find people to do the job.

Now, let's go through it one step at a time. Have there been substantial offerings from other agencies in terms of contracts?

Mr. Cox. Yes.

Mr. MITCHELL. All right. Have you in general been able to reach to find the people to match those substantial contracts?

Mr. Cox. In general, yes.

Mr. MITCHELL. In the case, I think it was, was it the Corps of Engineers, Counsel? I don't recall. Are you familiar with a total offering from one of the military agencies of almost $7 million?

Mr. Cox. Yes.

Mr. MITCHELL. And the actual contracts let were about $1 million?

Mr. Cox. Yes.

Mr. MITCHELL. Now, is that substantial finding of people to fill the contracts? Would you consider that substantial?

Mr. Cox. I believe there is still about $4½ million of that that we are negotiating on. There is some we could not reach an agreement on a price. If we have a contractor who says, I can do this job for only $2 million, and the corps is willing to pay $1½ million, we turn that contract back.

Mr. MITCHELL. Are you saying that you have no difficulty in identifying minority contractors to meet the offerings that are made by the agencies, but there would be other technical problems?

Mr. Cox. Where we have some difficulty is getting them qualified on the 8(a) program. We don't have any difficulty identifying them.

Mr. Williams pointed out that bonding was a problem, and sometimes the Federal agencies, they offer big, big contracts that are, that they are unable or unwilling to break into smaller components, and so we are unable to get bonding.

Mr. MITCHELL. That presents a very serious problem. Bonding has been a perennial problem and for that reason we brought about some changes in the law which give SBA the authority to waive bonding under certain conditions.

When a minority businessman has had difficulty with bonding, have you or your staff advised him about the waiver provisions of bonding?

Mr. Cox. Yes, we have at times.

Mr. MITCHELL. Have you ever exercised that provision?

Mr. Cox. Exercised what provision?

Mr. MITCHELL. The waiver.

Mr. Cox. To the best of my knowledge, only the administrator can do that.

Mr. MITCHELL. Have you ever put in any request to the administrator?

Mr. Cox. No.

Mr. MITCHELL. Have you had conditions under which you have seen a minority business about to lose a contract because of the lack of bonding, where you feel that if you could get bonding he would do a good job?

Mr. Cox. No.

Mr. MITCHELL. Never had?

Mr. Cox. No.

Mr. MITCHELL. Then what is the nature of your bonding problem? I don't understand it.

Mr. Cox. I don't have a bonding problem, but contractors in Alaska in general have bonding problems, not just SBA plans and not just minority plans, but bonding is a problem in Alaska for everyone.

Mr. MITCHELL. I am concerned about minorities in this hearing. I am also concerned about what is available under the law to assist minorities when they have problems with bonding.

One of the elements available under the law is the provision of law which allows SBA to waiver bonding requirements under certain circumstances. That can only be done by the central office.

My question is, have you ever encountered a circumstance under which you felt a minority business could do a job, but was having problems with bonding and sent in a request to the central office for a waiver provision?

Mr. Cox. My response was no. To the best of my knowledge, no.

Mr. MITCHELL. Never have?

Mr. Cox. Not that I am aware of.

Mr. MITCHELL. All right.

In terms of your policy, what might be called an in-house policy, is there any directive to the members of your staff that they should advise applicants that to seek out and use the resources of their representatives might be inimical to their best interests insofar as SBA is concerned?

Mr. Cox. Our general response is, contact your Senator or your Congressman.

Mr. MITCHELL. Do you know of any circumstances under which a member of your staff might have said to an applicant or prospective applicant, "I would not contact any Member of Congress because their interference might slow down your 8(a) process?"

Mr. Cox. Not that I am aware of.

Mr. MITCHELL. How often do you have staff meetings which address this problem which might either directly or peripherally address it?

Mr. Cox. I have never been aware that that was a problem.

Mr. MITCHELL. Well, I think that there is a problem. I really believe that there is. When Senator Gravel was here yesterday, he was noticeably shocked at some testimony which said that an employee in your office had indicated that the person had done something terribly wrong about contacting Senator Gravel.

Mr. Cox. Then they should notify us and we will take proper action. It is not the policy of our office to ever restrict anyone from contacting anyone.

Mr. MITCHELL. That is excellent. There are a couple of things that developed in which apparently employees have been operating not within the scope of the policy of your office.

Mr. Cox. We should be informed of that, then.

Mr. MITCHELL. I was coming the other way. Why wouldn't you have known about it, rather than being informed from the outside, why wouldn't you have known this, as the top administrator, about these deviations?

Mr. Cox. He didn't tell me not to contact my Congressman. How would I know of this?

Mr. MITCHELL. That is not responsive. If I may, let me tell you why it is not responsive. As an administrator, I am an administrator in my office and I sit down and have staff meetings. If in the staff meetings I get the slightest hint that someone on my staff is taking an action that is not in consonance with my policy, then that is brought to my attention. I don't wait for somebody on the outside to tell me. I run my own shop. That is the direction that I am coming from.

As a good administrator, why aren't you aware that these things are happening?

Mr. Cox. Nobody has told me that they were happening, and we will correct it if it is happening.

Mr. MITCHELL. If a contractor comes into your office, a minority contractor, and says, "I want to be certified as 8(a), I have been in this business for 4 or 5 years," he would seek counseling, I am sure. Would the general tenor of the counseling be to thrust him into an area other than the area in which he is experienced?

The case in point that I am attempting to cite is a contractor who testified that he had been in the business for 5 or 6 years working, finally decided to come in for 8(a) certification, and your staff advised him that that was not likely and suggested, why don't you go into janitorial services?

What would the policy be?

Mr. Cox. Not likely that that would happen.

Mr. MITCHELL. That would be a contravention of policy?

Mr. Cox. I don't know that it would be a contravention of policy, but that wouldn't be very likely to happen.

Are you specifically saying they sent him toward maintenance work?

Mr. MITCHELL. Yes, suggested, "Wouldn't you be better off in janitorial services?"

Mr. Cox. What was he into originally?

Mr. MITCHELL. Contracting, construction.

Mr. Cox. That would not have happened.

Mr. MITCHELL. If it happened, it would be an aberration on the part of one of your staff people?

Mr. Cox. There could have been a misunderstanding, but I was not aware that that happened.

Mr. MITCHELL. Counsel, do you have any questions?

Mr. CLARK. Yes, just a few.

You stated earlier in your testimony that your central office has the responsibility of notifying firms of their rejection or acceptance for the 8(a) program. Is this correct?

Mr. Cox. Notification, yes, that is where their notification comes from.

Mr. CLARK. Has the situation ever occurred in which you or other individuals have in fact informed potential 8(a) clients that they have been rejected for the program?

Mr. COX. I am sure that is true.

Mr. MITCHELL. Did you take action to remedy that apparent violation of the law?

Mr. Cox. I didn't know that that had ever been a violation of the law.

Mr. CLARK. There seems to be some inconsistency, does there not? On one hand you state that the central office has primary responsibility, yet you agree that your office has taken a responsibility to notify applicants which is stated in the law, and yet you say that is not a violation of the law.

Mr. Cox. I am not aware that that is stated in the law, but I will look into that. Generally, what has happened is because of the mail time on some other pressing things going on, the client will be coming to us saying, "Have I been approved or rejected?"

We will make a phone call to Washington, D.C., and if we get an answer, we will try to give that answer verbally to the client rather than let him wait for the mails.

Mr. CLARK. Well, in this situation, I think either there was some misinformation coming from the Washington office or something else taking place because the example clearly indicates that the response that came from your office in terms of the reasons for being rejected for 8(a) certification were entirely different from the response from the central office, that office which has the responsibility, the ultimate responsibility as stated in Public Law 95-507 for the acceptance or rejection of an application.

Are you familiar with that situation?

Mr. COX. Yes, I am. I am familiar that they are the only ones. I didn't know that the law covers anything to do with notification. The only people who can approve or reject is specifically one person in the central office, as I understand it.

Mr. CLARK. Well, we are splitting words in a sense. Notification would mean that that person who has a responsibility would first have to make the decision as to whether or not that applicant is accepted or rejected?

Mr. Cox. Right.

Mr. CLARK. Therefore, a response which comes from your office which is earlier than a response from the central office would seem to indicate that a decision has been made by your office that the applicant is nonacceptable which again transgresses the intent, the spirit and the letter of the law?

Mr. COX. If you will provide me with the information, I will look into it and provide you with the answer. I am not sure what we are talking about here.

Mr. CLARK. Fine. Do you have any control over what is the process for information coming out of your office in terms of decisions? Do you review the letters prior to their being mailed, or do

you have any type of sign-off authority, or exactly how does that operate?

Mr. Cox. They would be informed directly from the central office in writing. Generally, they come to us and say, "Hey, we have just been approved from the central office," because they usually know 2 or 3 days before we do, sometimes a week or so before we would be informed.

Mr. CLARK. OK.

Mr. Cox. There have been instances when we have called to get information for the clients, that we are trying to get a contract put together for somebody and time is always important up here where we have called, so we will have the information verbally.

Mr. CLARK. A couple more.

Mr. MITCHELL. Sure. Go ahead.

Mr. CLARK. What does section 211 of Public Law 95-507 mean to you?

Mr. Cox. The responsibility for that section rests with the regional office. The subcontracting?

Mr. CLARK. Yes.

Mr. Cox. And they have a very small staff in the regional office. Would you like Mr. Larry Gourlie, Regional Director, to respond to that?

Mr. CLARK. Before he responds, what specific actions have been taken on the part of the district office here to see that that particular section is fully implemented in terms of the procuring activities in the State of Alaska?

Mr. Cox. Well, that responsibility again rests with the regional office. We have informed other Federal agencies of the law, the public law.

Mr. CLARK. What you are saying, what you are telling me, then, is you have no knowledge of how section 211 is being implemented in the State of Alaska?

Mr. Cox. Specifically by circuit riding, I would call it, from the Seattle regional office.

Mr. CLARK. Are you saying that the Seattle regional office has informed you of actions that are being taken or—I am trying to follow what you are saying.

Mr. Cox. Yes, we have. They periodically sent—the whole region has two men for the whole region, for all five States, and he periodically circuits through the State on a circuit riding basis informing our office and other Federal agencies, other individuals or groups or whatever, of the subcontracting opportunities under the law.

Mr. CLARK. In your written testimony you provide us with some very good statistics. On page 2, you state that there are 31 people in the office, yet in your oral testimony you state that there are 29.

Mr. Cox. Well, we have 31 positions, and I am sorry, that probably is 28. I have one other person that is going to be leaving in the very, very near future, 28 or 29. I have 31 positions.

Mr. MITCHELL. I am sorry, I wanted to ask a couple of questions about positions.

Have you had any positions become vacant in the last 3 months?

Mr. Cox. Yes, I have.

Mr. MITCHELL. What positions?

Mr. Cox. The attorney.

Mr. MITCHELL. General counsel?

Mr. Cox. Well, the district counsel.

Mr. MITCHELL. District counsel. When did he leave?

Mr. Cox. Well, he left on the 7th, but we have prevailed upon him to stay until the 7th of next month because I can't seem to get another attorney right away.

Mr. MITCHELL. Do you know why he is leaving?

Mr. Cox. To go into private practice.

Mr. MITCHELL. Who else has left? Any other staff turnover?

Mr. Cox. Oh, yes, we had another, a loan officer. He went with the State. He had in 20 years and was 55 or whatever it is.

Mr. MITCHELL. Any more?

Mr. Cox. In that time period?

Mr. MITCHELL. OK. That is all right.

Mr. Cox. Was there something specific you wanted to know about that?

Mr. MITCHELL. If there is, I will let you know. I was just curious.

Mr. CLARK. I am curious in terms of staying on the personnel situation. I am curious in terms of staying with the question relative to the personnel situation. I am curious in terms of the breakdown that you have.

Administration, you list 6; financial, 14; and so forth. How many minority individuals do you have on your staff?

Mr. Cox. Seventeen percent of my staff are minorities, 5.

Mr. CLARK. You have 5, and where are those 5 placed?

Mr. Cox. As loan specialists. I have 3 out of the 10 loan specialists. The assistant district director for MSBCOD is a minority. In administration I have 1 minority. That is a total of 5 which is 17 percent of my staff.

Mr. CLARK. OK.

Mr. Cox. Forty-eight percent women.

Mr. CLARK. What type of outreach has your office done to meet the mandates of Public Law 95-507? What type of outreach services have you provided?

Mr. Cox. We have tried to travel throughout Alaska to the major communities, trying to get the word across.

We have a limited staff. We have one person in MSBCOD, Mr. Williams, very limited travel staff. We get him out there as often as we can.

We have one person in procurement that works with 8(a) and a business development officer, and the travel funds just do not allow us to, in fact, as most of the other staff is allowed, this staff to use part of their travel funds to get out there and to have more outreach.

Mr. CLARK. I am curious, you mention Public Law 95-507 places somewhat of a burden on you in terms of personnel and changing of the priorities. I think that was Mr. Williams 'statement.

Have you sought additional personnel so that you can in fact move forward in terms of the implementation of Public Law 95-507?

Mr. Cox. Yes.

Mr. CLARK. When was this done?

Mr. Cox. Every time we see Mr. Gourlie, I guess. We have to live with a national ceiling and, of course, the region lives with the ceiling and I think that they try to split the number of positions up fairly among all the regions in the districts. We don't feel like we have been treated unfairly by the regional or the central office.

Mr. Mitchell. I only have three or four more questions.

There are some problems that I would like to get your thinking on. We are going back to bonding now where a subcontractor gets hooked up with a prime who is already bonded and the sub is required to come up with separate bonding.

Are you aware of that kind of problem?

Mr. Cox. Yes.

Mr. Mitchell. What is your thinking on how we could attempt to eliminate that problem?

Mr. Cox. Well, eliminate the bonding?

Mr. Mitchell. Yes. Is it possible that if you are dealing with a prime, that they might take on an extra added effort since they are already bonded and covered to eliminate the necessity for the bonding of a sub?

Mr. Williams. Well, I think the problem is, you know, when you authored Public Law 95-507, and from there came the SOP 80-05. In that, our staff in Washington, D.C. put provisions in there to protect our 8(a) contractor when he did joint venture, and so therefore in the past I guess we really didn't know what happened, what share our joint venture was getting, so all joint venture agreements have to go back to central office and it is clearly written in favor of our 8(a) contractor. So, consequently, when you do do that, the prime is in there for business and so naturally if he has got to only have 49 percent of the contract and 49 percent of the profits of the contract, and 49 percent of the profits, he will make the 8(a) put up his share. I think that is what you mean.

Mr. Mitchell. Not quite. It could be a joint venture that does not have to operate on a 51-percent control. It could be a joint venture with an 8(a) sub, a legitimate joint venture where the minority sub is doing 30 percent of the work. That is perfectly legitimate. And the prime is bonded for a job, and yet I understand we would require that sub who is doing 30 percent to come up with separate bonding.

It seems to me that your best thinking ought to be applied to have that sort of problem, how that sort of problem can be eliminated.

Mr. Cox. The prime contractor would be the one requiring the bonds. Many times he takes the contract and makes part of the subcontractors provide part of the bond so he can stretch his on further somewhere else.

Mr. Mitchell. I understand how it works. I am trying to suggest a role. I keep coming back to advocacy. I am thinking of some kind of a role you might be able to play to diminish that.

Mr. Cox. We have asked, in the past, prime contractors—when we are the prime contractor and we take one 8(a) contractor on a big job, and we have been known to ask them to take other 8(a) people and maybe not require a bond from them. Is that what you are suggesting?

Mr. Mitchell. Yes.

Mr. Cox. Yes, we have done that, and we have asked other 8(a) contractors to take on contractors and teach them and carry them along, the more successful 8(a) contractor to take on a less successful one.

Mr. MITCHELL. All right.

What is the current policy on SBA loans for minority, for printing contracts? I know at one time there was a ban. Suppose a guy wants to go into printing. That is a legitimate contract that could be funded if he had the money, legitimate business loan?

Mr. Cox. Oh, business loans for printers?

Mr. MITCHELL. Yes.

Mr. Cox. Yes, it is legitimate. We will make loans for printers.

Mr. MITCHELL. OK.

Mr. Cox. Printing is a highly risky operation, not just for minorities but for everybody.

Mr. MITCHELL. Yes, it is, but the whole point is that in many instances it is almost a nonrisk operation where you cut into GPO, for example, and get a contract with them. That is guaranteed. I know of a number of white firms who have gotten 20 subcontracts from GPO and that is their livelihood. They don't even have to worry about printing anything else, so in a sense that approach could be used. It would not be very risky.

Mr. Cox. The printing offices, by the way, are not in Alaska. Most of that is done in Auburn and Seattle rather than in Alaska.

Mr. MITCHELL. Where the opportunity would present itself, it would not be any major problem.

I did have something I was curious about. You had a prebusiness workshop yesterday?

Mr. Cox. Yes. Did you attend?

Mr. MITCHELL. I dropped in.

Mr. Cox. We heard that. Did you enjoy it?

Mr. MITCHELL. I am asking the questions.

Mr. Cox. Oh, OK.

Mr. MITCHELL. When was this workshop planned?

Mr. Cox. When was it planned?

Mr. MITCHELL. Yes.

Mr. Cox. About 90 days ago.

Mr. MITCHELL. How well attended was it?

Mr. Cox. Twenty-one people.

Mr. MITCHELL. Was that including the young lady who came to Alaska with me who just dropped in but she signed the list. I saw her name on the list. She just dropped in there. She was not a participant?

Mr. Cox. Then there would be 20, however.

Mr. MITCHELL. How many people did you anticipate would attend this prebusiness workshop?

VOICE FROM THE AUDIENCE. Approximately 20.

Mr. Cox. We put on several of these a week all over.

Mr. MITCHELL. How many—this lasted all day. How many of your staff people were involved throughout the day, the numbers in this workshop?

Mr. Cox. Just the one.

Mr. MITCHELL. And you would feel that on the basis of their participation it was successful, 19 or 20 people?

Mr. Cox. Yes.

Mr. MITCHELL. All right.

I saw correspondence yesterday of a minority businessman seeking 8(a) certification, had a contract pending, was advised that for various and sundry reasons he should enter into a relationship with a nondisadvantaged firm. I would assume that would give him more experience and greater background, and that kind of thing, which is what he did, and then the office further advised him that the certification was turned down because the nondisadvantaged firm that he had entered into a working relationship was already in the particular business covered.

I will share that correspondence with you because that is utterly insane, utterly so. I would really want to have your reaction to it.

Mr. Cox. Yes, we would appreciate that.

Mr. MITCHELL. We kept you here for a very, very long time and you have been most gracious in responding to the questions. I cannot let you go without sharing my very deep concern about a negative climate and I would strongly urge that you begin to look at that climate and do something about it.

Whether it is justified or not, whether there is a real basis for that negativism or not, it is a factor in the equation that you have got to deal with. I could not serve effectively in the Congress if I knew that the minute I stood up, one-third of the Members of Congress were going to close their ears because of some prejudice or something like that. I couldn't operate in that climate.

If I saw that climate developing, I would be in the process of doing something about it. That is the climate in which your district office is operating I would respectfully suggest to you. I have seen or heard very little today to disspell my own concerns about that negative reaction.

In closing, I would simply suggest to you that at least take this opportunity to become aware of it, and hopefully, if you become aware of it, some efforts can be made to disspell that climate.

I thank you very much for being here and for being so cooperative.

Mr. Cox. Thank you.

Mr. MITCHELL. Thank you, gentlemen.

Mr. Carpenter, Mr. Carpenter from Commerce, and Mr. Gilliland from the Department of Interior.

It might expedite matters in the event we could also hear from the Department of Energy at the same time. I will let you get in all of your testimony before I ask any questions, and I am going to start with you because you have been waiting so very long and patiently.

Go right ahead, please.

TESTIMONY OF FRANK H. CARPENTER, NATIONAL DIRECTOR, CONSTRUCTION PROGRAMS, MBDA, DEPARTMENT OF COMMERCE

Mr. CARPENTER. Congressman Mitchell, we appreciate the opportunity to enlarge upon the written testimony which we have already supplied to you. I would like to say parenthetically that originally this testimony was to have been given by Mr. Jack Wilburn who is the chairman of the minority business opportuni-

ties here in Alaska and, unfortunately, because of the information all of us are aware of, he cannot be here, along with Doreen Feng who was a member of the staff who also was involved in that mishap.

We would like to at least focus on that portion of the written testimony that specifically involves Minority Business Development Agencies concerning the Alaska Natural Gas Transportation System activity here in Alaska. I think once you have read that testimony, and I am sure you already have, we would like to underscore several points and convey to you our concerns with respect to the Minority Business Development Agency's activity in Alaska.

First of all, we have made five visits to Alaska since February. The nature of those visits have been to determine, at least assess, the possibility of the Minority Business Development Agency supporting minorities here in this State in conjunction with the activities of the gas line.

We are motivated by our awareness of what occurred on the oil line some years agao.

Mr. MITCHELL. Which was a fiasco?

Mr. CARPENTER. In response to that concern, under the direction of Daniel P. Henson III, our Director, we moved very quickly in October 1979 against objections from many advocates of that matter and let two grants to top-flight minority concerns. The grants total $1 million. A $1 million is a large allocation from the meager funds of MBDA which represents, at least as far as we are concerned, a deep support for the concerns we had in trying to prevent what occurred on the oil line from occurring on the gas line.

To a top-flight minority firm went $500,000 to provide management, technical assistance on the eastern leg of the pipeline. The same amount of money went to provide management and technical assistance on the western leg.

Let me go on a few minutes more with respect to the definition of what that means. When we said technical assistance, we said technical assistance in the context of the climate that MBES finds they must try to at least conduct business in this country.

We are aware that there is a difficulty in obtaining up-front capital funds. We are aware after 10 years of trying to support minorities obtaining bonds and the problems that would occur with respect to this project. We were also aware that this particular project presents a new combination of problems with respect to the distances involved, both on the eastern, western and Alaskan leg of the pipelines.

We proceeded to put in place in Omaha a company who is headquartered in East Orange, N.J. In Omaha, the consortium company is there, and we wanted to establish good relationships with the company because we feel if we can establish relationships with the sponsoring companies, we can play the role of the advocate and that is what MBDA does in this instance effectively.

We did the same thing by placing a company in Oakland, Calif., the headquarters. On the heels of that we began, in concert with the Federal Inspector's Office who invited us, based on having looked at what we had already done in the lower 48, to look at the

situation in Alaska. Through five trips now, including this one, we can say that MBDA is close to arriving at some understandings with minority groups here in Anchorage, and the State of Alaska, to looking at a development that is being packaged here, that might duplicate or at least follow the model which we have already designed in the lower 48.

The essence of that model has to do with two things, and it is a strategy. We feel if we can provide the management and technical assistance to the minorities on one end of the spectrum, addressing the bonding problem, estimating schedules, procurement and marketing problems, and at the same time establish strong relationships with the consortium companies, meaning as we have done with P.G. & T., we actually work with the P.G. & T. engineers on a day-to-day basis in terms of the specification writings, the procurement, the schedule, and to that degree we are able to take a look at the possibilities for downsizing the various contracts to alert the minority business as to what the opportunities will be in a future situation.

Along with that, we attempt to prequalify MBES, not just up to a minimal standard but knowing what the qualifications standards are for the two companies, we try to exceed those standards so that when we bring packages, having identified MBES with respect to a given procurement opportunity, we know at the outset that we have got a company that exceeds the prequalification standards and a company that is bondable up to x amount of dollars.

We have got a company that can meet the specifications as we already are aware of. Thus, the negotiations for involving that MBES are less difficult than they would have been otherwise.

For example, there are two contracts that we have obtained through MBDA efforts with P.G. & T. The company is a minority firm which we have obtained and entered into a contract with P.G. & T. to be responsible for letting other procurements. International Engineering Co. is the name of the firm.

The second company is a minority printing company which has a beginning contract of $5,000, and it looks as though they will have the ongoing printing contracts with P.G. & T. as a result of the work that they are presently doing.

We are here in Alaska on the last five trips talking to Alaskans, Indians, Native Alaskans and blacks, and based on the outcome of today's trip and the next few days, we in MBDA and the Federal Inspector's Office expect to see a package which we could take a look at to at least provide the underpinnings for at least confronting some of the problems which I have heard expressed today.

I have two other points I would like to speak to. MBDA has worked very hard at establishing a relationship with the Federal Inspector's Office. That activity has involved working with the development of the rules and regulations as promulgated by the Department of Interior, and MBDA has some input on that, and presently we are in the process of working out an agreement with the Small Business Administration office in Washington, D.C.

In fact, the MBDA now has on its desk a draft agreement which we are examining, and the reason why we felt the need to establish an interagency agreement or a memorandum of understanding is that we anticipate that there will be very, very serious hinderances

with respect to financing on the gasline which, by definition, if these are not solved, could well preclude whatever opportunities we expect to have minorities participate in on the gasline if they are not solved.

We are working out some kind of arrangement so that the national office, and hopefully it will drift down to the various SBA district offices to strengthen the resource that minorities have a right to expect in SBA offices.

With those comments, Congressman Mitchell, I am available for any questions you may have.

Mr. MITCHELL. Thank you very much. I do have some comments but I will try to stick to my word and let all of the witnesses make their statements first, and then if you will just relax, we will get to you.

Mr. MITCHELL. Mr. Duffy, we were discussing that $3 million contract this morning, and at that point you said the contract had not been awarded.

Mr. DUFFY. That is right, sir.

Mr. MITCHELL. I am advised that it has now been awarded as of yesterday, I think. Were you aware of that?

Mr. DUFFY. No, sir.

Mr. MITCHELL. You don't know the company to whom that award was made?

Mr. DUFFY. The question this morning was, did HUD, as I recall, was HUD aware of the contract, that the contract had been awarded. And my answer was no, and it is still no. I am not aware the contract has been executed.

Mr. MITCHELL. What is the name of the company that got the R. & D. construction? Are you familiar with that now?

Mr. DUFFY. No; the four proposals that were submitted were Baugh Construction, Easley Matsue, Leo's Construction, and G. C. Contractors, Inc.

Mr. MITCHELL. G. C. That is the name I was looking for. It is my understanding G. C. has been given the contract.

Mr. DUFFY. The Board of the Alaska State Housing Authority held a meeting and, based on the Alaska State Housing Authority staff evaluation, made a recommendation to the Board that G. C. be awarded the contract.

Mr. MITCHELL. All right. Go ahead.

Mr. DUFFY. The Alaska State Housing Authority came in and requested our review and concurrence in that review and we have concurred in it but, as I indicated earlier, sir, the contract has not been executed to my knowledge.

Mr. MITCHELL. We understand that it now has.

One last question, and your shop is going to pieces today, because I am calling you back.

You agreed with the recommendation of the staff vis-a-vis G. C. Construction?

Mr. DUFFY. Yes, sir.

Mr. MITCHELL. Do you know anything at all about the track record of that company with regard to utilization of minorities?

Mr. DUFFY. No, sir. The concurrence we made was based on the identity of minority individuals as a part of the 25 percent. That proposal was included in its overall operation.

Mr. MITCHELL. But you have no knowledge that in PASS contracts this particular company has ever utilized minority business?

Mr. DUFFY. No, sir; I don't.

Mr. MITCHELL. You would not have needed that in connection with the approval of that action simply because there is a guarantee of 25 percent?

Mr. DUFFY. They identified minority businesses in the community that would be a part of this contract.

Mr. MITCHELL. Thank you very much. I promise not to call your office again today, and Alaska will be rid of me by tomorrow.

Mr. DUFFY. We hope you stay over and enjoy the good weather.

Mr. MITCHELL. Gentlemen, go right ahead.

TESTIMONY OF JERRY GILLILAND, SPECIAL ASSISTANT TO THE SECRETARY OF THE INTERIOR, ACCOMPANIED BY EDWARD SHELTON, DIRECTOR, OFFICE FOR EQUAL OPPORTUNITY; AND ALFRED GORDON, ASSISTANT DIRECTOR, OFFICE OF EQUAL OPPORTUNITY

Mr. GILLILAND. My name is Jerry Gilliland. I am a Special Assistant to the Secretary of the Interior, and I have been asked by Secretary Andrus and Under Secretary James A. Joseph to represent the Department at this hearing.

Both the Secretary and the Under Secretary asked that I express their regrets for their being unable to attend this meeting.

I want to express the Department's full support for your mission here, and I want to welcome you to Alaska, you and your task force and staff.

I am sorry to hear you are leaving so soon.

Mr. MITCHELL. You are one of the few.

I thank you for your kind words anyway.

Mr. GILLILAND. In your invitation letter, you asked the Department to address its testimony to specific programs and assistance that it has been providing to the minority business community in Alaska.

My testimony today will review the Department's contributions relating to the Trans Alaska Pipeline System, TAPS, the Alaska Natural Gas Transportation System, ANGTS, the National Petroleum Reserve of Alaska, NPRA, the special provisions of the d(2) lands program and the Alaska Native Claims Settlement Act.

I will also attempt to provide a summary of the Department's progress in fiscal years 1979–80 in prime contract awards to Alaska minority business enterprises and our experience in subcontracting to Alaska minority firms.

I would like to say that I have with me today Mr. Edward Shelton, Director of the Department's Office of Equal Opportunity, and Mr. Alfred Gordon, assistant director of that office. Both of these gentlemen were in Alaska on other business, and I am fortunate they are here with me to assist me in answering any questions you may have.

First, I would like to address the initiatives the Department has undertaken under the TAPS Program. This was, of course, our first major project experience in Alaska and has served as a learning experience upon which we have attempted to improve our efforts for the subsequent large projects which I will also discuss.

The Office for Equal Opportunity drafted the regulations for employment of minority group members and utilization of minority businesses under which the builder of the pipeline has operated. That office also conducts annual reviews of the company's compliance with the regulations and its accomplishments.

While we have not been totally satisfied with the results of this project to date we have, as I have indicated, tried to build on this experience for later projects. It is in connection with this project that Mr. Shelton and Mr. Gordon are here in Alaska this week.

The total dollar value of the work performed under the TAPS Program was approximately $9 billion. While we have some reservations about the complete accuracy of our data on minority subcontracts, we can state that well in excess of $400 million of this project have gone to minority firms and the effort to increase minority participation is continuing through the operations and maintenance stage.

This operation is projected through the year 2003 with continuing minority participation in the ousiness opportunities. Increased responsibilities for day-to-day monitoring of this program have been given to the Department's Bureau of Land Management; however, the Under Secretary has required the Department's Office for Equal Opportunity to continue certain oversight responsibilities.

I would now like to address the second major energy-related construction project in Alaska in which the Department had substantial responsibilities, the ANGTS, as I stated, the oil pipeline, cost approximately $9 billion to construct.

The natural gas pipeline, by comparison, may cost as much as $15 billion. As in the TAPS project, Interior's Office for Equal Opportunity drafted the governing regulations dealing with employment of minority group members on the project and providing business opportunities to minority-owned firms. The total responsibility for monitoring compliance with these regulations has been placed in the Office of the Federal Inspector.

However, I would like to stress that Interior is continuing to work with the OFI to enhance participation by the minority business community. For example, the Department's Office of Youth Programs is now developing the concept of a Welding Trainee Program for minority youths and young adults to prepare them for participation on the gasline construction. This and similar initiatives will, of course, be closely coordinated with the OFI as the concepts are developed.

Mr. Chairman, I should clarify that the two projects I have just reviewed were funded by the private sector. I would now like to discuss our government-funded projects.

Since late in fiscal year 1977 the Department has had cognizance, through the U.S. Geological Survey, over the National Petroleum Reserve of Alaska, commonly referred to in Alaska as NPRA. NPRA consists of approximately 37,000 square miles of land in northern Alaska.

The purpose of our efforts there is to assess the available petroleum reserves. A major subcontract under that effort has resulted in very large awards to a joint venture company which includes the regional cooperation of the Eskimo Village of Barrow, Alaska.

These awards have totaled over $105 million in fiscal years 1978, 1979 and 1980. Because of our concern that not enough was being done under this program for other minority groups, the Office of Small and Disadvantaged Business Utilization and the Assistant Secretary for Energy and Minerals insisted that the contracting officer negotiate a separate aggressive goal conforming to the requirements of Public Law 95-507.

An additional goal of $4 million was thus established for this purpose. We are pleased to report that we are now projecting minority subcontract awards under this separate effort to reach $5.5 million this year.

By policy embodied in the Department's legislative proposal now before Congress on the d(2) lands questions——

Mr. MITCHELL. Perhaps we ought to skip over the d(2) situation.

Mr. GILLILAND. I would be more than pleased to skip over it.

Mr. MITCHELL. No; go right ahead.

Mr. GILLILAND. The Secretary is urged to utilize Native Alaskans in the business opportunities made available through the recommended uses of the d(2) lands. We anticipate that local hiring provisions in the legislative proposals will also constitute a positive impact on Alaska's minority community.

Under the Alaska Native Claims Settlement Act, the Department's Bureau of Indian Affairs has now distributed approximately $903 million to Alaskan Native corporations. Distributions of an additional $30 million on September 30. 1980 and again on September 30, 1981 will complete the funding of this program.

Mr. Chairman, in attempting to validate that the Department is indeed in compliance with the subcontracting provisions of Public Law 95-507, OSDBU has found that no contracts were awarded for performance in Alaska which were above the prescribed dollar thresholds requiring subcontracting plans with the exception of the prime contract on the National Petroleum Reserve of Alaska. That contract does have a subcontracting plan incorporated and substantial progress is being made, as I related earlier.

In the area of direct contracting with Alaskan minorities, I would like to cite two examples of the progress being made by our component bureaus. The Bureau of Land Management was able to award $925,042 to Alaska minority firms in fiscal year 1979. Our best projection at present suggests that in fiscal year 1980 this will increase to more than $1.3 million, an increase of over 47 percent.

Similarly, the U.S. Fish and Wildlife Service reports that, as of July 1, 1980, it had awarded $642,000 in direct awards to minorities in Alaska. This is 125 percent of its total fiscal year 1980 goal.

Mr. Chairman, I would like to reiterate the position stated in the testimony by Under Secretary James Joseph in June of 1979 and by Charlotte Brooks Spann in December 1979 before hearings of this task force.

"The Department of the Interior actively supports the Minority Business Enterprise Program and we fully intend to comply with every aspect of Public Law 95-507."

As I stated in my earlier remarks, we appreciate and encourage the ongoing work of the task force in ensuring complete and timely implementation of the law. Our efforts relating to the minority community in Alaska are a part of our overall minority program.

If there are any questions I will be happy to respond, along with Mr. Shelton and Mr. Gordon.

Thank you very much.

[Mr. Gilliland's prepared statement follows:]

PREPARED STATEMENT OF JERRY GILLILAND, SPECIAL ASSISTANT TO THE SECRETARY, DEPARTMENT OF THE INTERIOR

Mr. Chairman, my name is Jerry Gilliland. I am a special assistant to the Secretary of the Interior and have been asked by Secretary Cecil Andrus and Under Secretary James A. Joseph to represent the Department at this hearing. Both the Secretary and the Under Secretary asked that I express their regrets that they could not be here themselves and to also express the Department's full support for your mission here. I want to personally welcome you, the task force and your staff to the great State of Alaska.

Mr. Chairman, in your invitation letter of June 24, 1980, you asked that the Department address in its testimony the specific programs and assistance it is providing to the minority business community in Alaska. My testimony today will review the Department's contributions relating to the Trans Alaska Pipeline System (TAPS), the Alaska Natural Gas Transportation System (ANGTS), the National Petroleum Reserve of Alaska (NPRA), the special provisions of the (d).2 land programs and the Alaska Native Claims Settlement Act. I will also attempt to provide a summary of the Department's progress in fiscal years 1979 and 1980 in prime contract awards to Alaska Minority Business Enterprises and our experience in subcontracting to Alaska minority firms. I will also attempt to answer any questions the Task Force might have on our programs. I would like to say that I have with me today Mr. Edward Shelton, Director of the Department's Office for Equal Opportunity and Mr. Alfred Gordon, Assistant Director of that Office. Both of these gentlement are incidentally in Alaska for discussing with one of the major corporations over whose Alaska program the Department has certain oversight responsibilities. Both are therefore available to assist me in answering any questions you might have.

TAPS

First I would like to address the initiatives the Department has undertaken under the TAPS program. This was, of course, our first major project experience in Alaska and has served as a learning experience upon which we have attempted to improve our efforts for the subsequent large projects which I will also discuss. The Office for Equal Opportunity drafted the regulations for employment of minority group members and utilization of minority businesses under which the builder of the TAPS has operated. That Office also conducts annual reviews of the company's compliance with the regulations and its accomplishments. While we have not been totally satisfied with the results of this project to date, we have, as I have indicated, tried to build on this experience for later projects. It is in connection with this project that Mr. Shelton and Mr. Gordon are here in Alaska this week.

The total dollar value of the work performed under the TAPS program was approximately $9 billion. While we have some reservations about the complete accuracy of our data on minority subcontracts, we can state that well in excess of $400 million of this project have gone to minority firms and the effort to increase minority participation is continuing through the operations and maintenance stage. The operation is projected through the year 2003 with continuing minority participation in the business opportunities, increased responsibilities for day-to-day monitoring of this program have been given to the Department's Bureau of Land Management, however, the Under Secretary has required the Department's Office For Equal Opportunity to continue certain oversight responsibilities.

ANGTS

I would now like to address the second major energy-related construction project in Alaska in which the Department had substantial responsibilities, the ANGTS, as a I stated, the oil pipeline, the TAPS, cost approximately $9 billion to construct, the ANGTS, by comparison may cost as much as $15 billion, as in the TAPS project, Interior's Office For Equal Opportunity drafted the governing regulations dealing with employment of minority group members on the project and providing business opportunties to minority-owned firms, the total responsibilities for monitoring compliance with these regulations has been placed in the Office of the Federal Inspector (OFI). However, I would like to stress that Interior is continuing to work with the OFI to enhance participation by the minority business community, for example, the

Department's Office of Youth Programs is now developing the concept of a welding trainee program for minority youths and young adults to prepare them for participation on the ANGTS. This and similar initiatives will, of course, be closely coordinated with the OFI as the concepts are developed.

NPRA

Mr. Chairman, I should clarify that the two projects I have just reviewed were funded by the private sector. I would now like to discuss our government-funded projects. Since late in fiscal year 1977 the Department has had cognizance, through the U.S. Geological Survey, over the National Petroleum Reserve of Alaska (NPRA). NPRA consists of approximately 37,000 square miles of land in northern Alaska. The purpose of our efforts there is to assess the available petroleum reserves. A major subcontract under that effort has resulted in very large awards to a joint venture company which includes the regional corporation of the Eskimo village of Barrow, Alaska. These awards have totaled over $105 million in fiscal years 1978, 1979 and 1980. Because of our concern that not enough was being done under this program for other minority groups, the Office of Small and Disadvantaged Business Utilization (OSDBU) and the Assistant Secretary for Energy and Minerals insisted that the contracting office negotiate a separate aggressive goal conforming to the requirements of Public Law 95-507, an additional goal of $4 million was thus established for this purpose. We are pleased to report that we are now projecting miniority subcontract awards under this separate effort to reach $5.5 million this year.

THE D.2 LANDS PROPOSAL

By policy embodied in the Department's legislative proposal now before Congress on the D.2 land questions, the Secretary is urged to utilize native Alaskans in the business opportunities made available through the recommended uses of the D.2 lands. We anticipate the local hiring provisions in the legislative proposals will also constitute a positive impact on Alaska's minority community.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Under the Alaska Native Claims Settlement Act, the Department's Bureau of Indian Affairs has now distributed approximately $903 million to Alaskan native corporations. Distributions of an additional $30 million on September 30, 1980 and again on September 30, 1981 will complete the funding of this program.

SUBCONTRACTING AND DIRECT CONTRACTING TO MINORITIES IN ALASKA

Mr. Chairman, in attempting to validate that the Department is indeed in compliance with the subcontracting provisions of Public Law 95-507, OSDBU has found that no contracts were awarded for performance in Alaska which were above the prescribed dollar thresholds requiring subcontracting plans with the exception of the prime contract on the National Petroleum Reserve of Alaska. That contract does have a subcontracting plan incorporated and substantial progress is being made as I related earlier.

In the area of direct contracting with Alaskan minorities, I would like to cite two examples of the progress being made by our component bureaus. The Bureau of Land Management was able to award $925,042 to Alaska minority firms in fiscal year 1979, our best projection as present suggests that in fiscal year 1980 this will increase to $1,365,246, an increase of over 47 percent, similarly the U.S. Fish and Wildlife Service reports that, as of July 1, 1980, it had awarded $642,000 in direct awards to minorities in Alaska. This is 125 percent of its total fiscal year 1980 goal.

IN SUMMARY

Mr. Chairman, I would like to reiterate the position stated in the testimony by Under Secretary James Joseph in June of 1979 and by Charlotte Brooks Spann in December 1979 before hearings of this task force. The Department of the Interior actively supports the minority business enterprise program and we fully intend to comply with every aspect of Public Law 95-507. As I stated in my earlier remarks, we appreciate and encourage the ongoing work of the task force in ensuring complete and timely implementation of the law. Our efforts relating to the minority community in Alaska are a part of our overall minority program, and now, if there are any questions, I will be happy to respond, along with Mr. Shelton and Mr. Gordon.

Mr. MITCHELL. Thank you very much. We had one other person to testify.

Come up and give your testimony and then we will put questions or comments to all three of the witnesses.

TESTIMONY OF FRED D. CHIEI, DEPUTY REGIONAL REPRESENTATIVE, ALASKA, DEPARTMENT OF ENERGY

Mr. CHIEI. My name is Fred Chiei. I am the Deputy Regional Representative for the Department of Energy.

I would like to express Secretary Duncan's regrets at not being able to attend the hearing. He is in the State, at the moment in Fairbanks, but the Secretary did ask that I convey to you the contents of a press release which I have entered into the record.

Mr. MITCHELL. Thank you, and I am very sincere. There was a news comment that he hoped to get in a little fishing. I hope he does. He needs some rest.

Mr. CHIEI. The press release he asked me is the one, "largest DOE minority contract awarded by the Department of Energy, being awarded last month, and that was to Thacker Construction Co. of Alton, Ill., for $23 million just for the first year." It is a 3-year contract, for $23 million. It has been awarded, and it will cover that and the additional years before their own funding.

I have already provided prepared testimony and what I would like to add to that, which is inclusive in the testimony, is our track record in Alaska. The Department of Energy in its contracting in Alaska fiscal year 1979 procured $4.5 million worth of services. Of that amount, $260,000 or 5.4 percent was awarded to minority firms.

In this year, fiscal 1980, we have awarded for the first two quarters $104,000 to minority firms, which is 5.7 percent of the total awards in that same period last year.

I would also add concurrent with the Secretary's visit here, the announcement was made the other day, the award of better then $4 million to a joint venture between The Placer-Amex Corp. and the Cook Inlet Region Group, which is a native corporation, and they will be doing some study contracts and looking at how we can take the overabundance of coal that we have in this State and convert it to methanol, and that will be the start of an industry here.

This is our track record to date, Congressman. The one problem, which is an observation on my part, we will try to increase minority contracting, but the problem that we have is that all of our procurements do not relate to contract construction or things of that sort.

Most of it is highly specialized, and the type of contracting that calls for engineering services, scientific evaluations, and things of that sort. We are seeking various minority companies within Alaska that can perform this type of an operation, and these are being made known to the SBA.

Also, as a double check on our operations within the State, within the Department, in Washington, we have two offices, the Office of Small and Disadvantaged Business Utilization, and also the office called the Office of Minority Economic Impact. Both these offices participate in our procurement operations as well as

the grant operations that we have within the State, so that we have a fairly good countercheck on anything falling through the cracks.

That, Mr. Congressman ends my testimony on this matter.

[Mr. Chiei's prepared statement and Secretary Duncan's press release follow:]

PREPARED STATEMENT OF FRED D. CHIEI, DEPUTY REGIONAL REPRESENTATIVE/ ALASKA, DEPARTMENT OF ENERGY

My name is Fred Chiei, and I am the Deputy Regional Representative of the Secretary of Energy.

The Department of Energy (DOE) has taken many initiatives to implement the provisions of Public Law 95-507. Today, I would like to discuss the Department's initiatives on two parts: First, the overall departmental policies and activities, and secondly, the department's activities in Alaska.

The DOE has two offices at headquarters which develop policy and implement the provisions of Public Law 95-507. They are the Office of Small and Disadvantaged Business Utilization (OSDBU) and the Office of Minority Economic Impact (OMEI).

OSDBU Is the Office which is responsible for promoting the use, by DOE program elements, of minority firms in the procurement process. This mission is accomplished through training of departmental and contractor employees in the purposes of the Minority Business Enterprise (MBE) program, planning, establishing, and monitoring of goals for each procurement office, and through review of activities of the DOE program elements both in the planning and execution stage both at headquarters and the field. OSDBU also develops departmental policy as it impacts the minority business enterprise (MBE program, and coordinates federal policy with the appropriate departmental elements.

The functions of the Office are:

Establishment of DOE-wide goals for MBE programs.

Reporting of MBE program accomplishments to SBA and the Congress.

Development and Implementation of Procurement/Assistance Policies regarding MBE programs.

Review DOE program procurement/assistance activities, in the planning stage, regarding setting aside for MBE preference.

Screening headquarters procurements for potential set asides, and working with small business/disadvantaged business specialists in the field to insure proper screening at those installations.

Develop plan for and implement 8(a) program through headquarters programs and field procurement offices.

Provide assistance to MBE firms in developing business opportunities within DOE.

Provide interface between MBE firms and DOE program/field offices regarding potential preferential treatment for specific procurements or types of procurements.

Education of DOE personnel regarding MBE programs.

Provide guidance to procurement offices regarding subcontracting plans/incentives.

Identification of planned procurement/assistance opportunities for MBE subcontract programs.

Interface with small business administration/office of federal procurement policy on small business act matters and procurement preference matters.

Provide program/field offices with information regarding capabilities of firms in MBE programs for possible procurements.

Provide program/field offices with information regarding positive applications of MBE programs.

In summary, OSDBU is to promote, within DOE, the greater use of disadvantaged business programs in the expenditure of public funds by means of contracts, grants, or cooperative agreements, and to develop and disperse information regarding these programs and the firms within these programs. Further, OSDBU is to work within DOE's procurement process to enhance the opportunities for preferential treatment. This is done both by proper planning and also through review of program execution mechanisms.

The Office of Minority Economic Impact (OMEI) has as its mission providing to the secretary advice on the effects of national energy policy, programs, regulations, and other DOE actions on minorities and minority businesses affected by the Department's programs and opportunities.

In carrying out these responsibilities, the office formulates and manages programs to provide management, technical, and financial assistance to minority businesses, educational institutions, and development organizations to enable them to obtain or participate in the department's research, demonstration, grant, contract, or other program opportunities. The office coordinates closely with the key program resource offices within the department to facilitate minority access to those in-house programs and assistance. A research program is also conducted by the office with the assistance of the energy information administration and other public and private research and data collection offices or centers. Such research is focused on determining the effects of national energy programs and departmental actions on minorities as well as energy consumption and use patterns of minorities. The director of the office has the additional responsibility to provide outreach to and liaison with minority businesses, educational institutions, and communities to provide them with information on the department's programs, energy policies, and research or data collection results.

OMEI, as its function:

Conducts an ongoing research program to determine the effects of national energy programs, policies, and regulations of the department on minorities.

Develops and recommends to the secretary policies to assist, where appropriate, minorities and minority business enterprises in dealing with such effects.

Provides management and technical assistance to minority educational institutions and minority business enterprises to enable these enterprises and institutions to participate in the research, development, demonstration, and contract activities of the department.

Provides, as appropriate, financial assistance in the form of loans to minority business enterprises as a means of assisting in participating in contract activities of the department.

Coordinates with other DOE organizations including policy and evaluation, intergovernmental, institutional relations, equal opportunity, procurement, and general counsel to assure that appropriate departmental resources are brought to bear on assigned activities.

In fiscal year 1979, the department of energy awarded $131 million to minority businesses. It is our goal in fiscal year 1980 to award $250 million to such firms. DOE has established a task force, reporting to the department's chief financial officer, to coordinate all activities necessary to meet the goal, as well as to develop plans to institutionalize the minority business enterprise program in the department's planning and execution process.

The Deputy Secretary of Energy, Mr. John C. Sawhill, has taken a personal interest in the fiscal year 1980 minority business enterprise/8(a) program. On May 22, 1980, he notified all department assistant secretaries, administrators, directors, and operations office managers that he wanted them to become familiar with their minority business enterprise plans, and that he would track the progress of these individuals. As you may know, President Carter has directed agencies to include, as part of the senior executive service (SES) personnel's evaluation, a critical element measuring a manager's achievement of procurement goals. DOE has complied with this directive. Thus, those to whom Mr. Sawhill addressed his comments will be measured by their performance, as will others within the senior executive service.

At present, the task force is reviewing program plans, making comments, and in general finalizing the department's thrust toward meeting its goal for minority business enterprise and the 8(a) program. DOE is taking very positive steps to insure that much more of its procurement expenditures are awarded to minority firms.

Various initiatives are planned by the department in fiscal year 1981 to insure proper planning of the MBE program. OSDBU is in the process of developing a source file of minority firms which it will use to match specific procurements to specific minority firms. This matching process will be done during the department's fiscal year 1981 procurement planning process, which occurs in August and September 1980.

OSDBU will be working with the Small Business Administration to expedite inputting of minority firms into the procurement automated source system (PASS). Also, the Department of Defense and the National Aeronautics and Space Administration will be asked to provide their source lists of minority firms so that those firms not in PASS can be contacted. DOE believes that PASS is an important tool in increasing procurement from minority firms, and we are publicizing its importance at every opportunity.

OSDBU further plans to work with DOE's field offices and prime contractors, including those firms operating Government-owned facilities, in order to match the contractor's requirements with minority firms. DOE will be monitoring the perform-

ance of its field offices and Government-owned, contractor operated (GOCO) contractors, as well as its prime contractors.

Finally, an outreach program, to include weekly meetings, will be more actively pursued, with the purpose being to provide minority firms with information on procurement opportunities within the department.

Within the State of Alaska, the department awarded, in fiscal year 1979, $4.5 million. Of this amount, $260,000, or 5.4% was awarded to small disadvantaged firms. We feel that, given the level of awards made in Alaska, that this amount is a good start. In fiscal year 1980, DOE has awarded, in the first two quarters, $104,000 to small disadvantaged firms, which is 5.7% of the total awards in that same period. And, with the increased emphasis on minority contracting brought about by the Task Force and SES evaluations, we believe that DOE is in the process of increasing its record. DOE is actively seeking out minority firms to do its work, and we have identified, with SBA, those Alaskan firms who are qualified for the 8(a) program. Through these mechanisms, and with increased emphasis in the area of procuring goods and services from disadvantaged firms, DOE believes that it can make significant strides forward in assisting small disadvantaged firms in Alaska in increasing their business, and we will be working to do better each year in the future.

U.S. DEPARTMENT OF ENERGY,
OFFICE OF PUBLIC AFFAIRS,
Washington, D.C., July 14, 1980.

LARGEST DOE MINORITY CONTRACT AWARDED

The largest contract ever awarded to a majority-owned business by the Department of Energy has been given to the Thacker Construction Company, Inc., of Alton, Illinois, for construction services to support the nation's Strategic Petroleum Reserve.

The cost plus award fee contract is for a period of one year with options to extend it for an additional three years. The estimated cost for the first year of the contract is approximately $23 million.

The construction services to be provided by Thacker will be in support of the Reserve's modification, equipment upgrading and enhancement program and will be performed at the Reserve sites in Louisiana and Texas. The procurement for these construction services was set aside by the Energy Department for award through the Small Business Administration under Section 8(a) of the Small Business Act.

The Reserve, which has 91.7 million barrels of crude oil in deep salt caverns at three sites in Louisiana and Texas, is intended for use during severe interruptions in U.S. petroleum supplies. The oil storage system has the capability to withdraw oil at the rate of almost one and a half million barrels daily.

Mr. MITCHELL. I thank you very much for your testimony. Just as an aside, earlier today I was called to the telephone; it was Mr. Sawhill who wanted to advise me that an announcement was going to be made prior to the appointment of another minority in the Department of Energy to a significant position.

He wanted to let me know about that before he departed for Africa. I think he is going on the African tour.

Let me start with both Mr. Carpenter and Mr. Gilliland.

I thank you for your testimony.

While obviously you are just at the embryonic stages of planning, it is too early to evaluate how successful you are going to be. The thing that I appreciate is that there is an apparent commitment.

I would say the same thing in terms of Interior, that there is an apparent commitment to do that which is right, which from my perspective stands in sharp contradiction to one of the witnesses that we heard earlier today, the gentleman from the SBA office.

I did not sense any real degree of commitment. I just didn't sense it, but I do on the part of really all three of you gentlemen, and I am most appreciative, even though you can't do any hard measuring of results at this point.

The other thing that I wanted to comment to all three of you on was the enormous responsibilty that you have on this gasline.

Mr. Gilliland, you used a very euphemistic phrase on page 2 with reference to the pipeline. I understand why you have to use that kind of phrase. It was a disaster for black people and minorities, and that is an enormous responsibility that falls on these three agencies now to make sure that you don't have a repeat of that kind of fiasco with reference to the gasline.

Mr. Carpenter, I will address the question to you and I hope all of you would be able to respond to it.

I was intrigued by your comment in which you are making efforts to downsize contracts, so there can be a great utilization of minority business. I think we have to be realistic. I would be hard-pressed to think of a minority venture right now that would be in a position to take on a $40 billion component of that gasline.

That is being very realistic, PASS, and ongoing discrimination and lack of access to capital, but if we are really concerned, then we will take the approach that you are taking. Whenever and wherever possible, downsize those contracts so that minorities can take advantage of them.

Now, you have indicated that that is MBDA's approach. What, if anything, along those lines is happening with your Department, the Department of Energy?

Mr. CHIEI. Any procurement is available to be looked at by the two offices in Washington that I mentioned. When we receive the instructions on a procurement that comes up with a percentage on it, this is on all contracts, this does bring on another thing.

I have observed in grants there is a tendency to be somewhat loose on that, because a grant is not as for a contractor, as specific, and possibly that is something your committee might want to look at.

In the case of contracts we have very specific instructions.

Mr. MITCHELL. To try to down-size wherever possible?

Mr. CHIEI. Yes.

Mr. GILLILAND. I am going to refer that question to Mr. Shelton.

Mr. SHELTON. We are in the State just this week and have been discussing that kind of problem with Alyeska. As you know, our philosophy has always been that procurement officers should first look at a contract in terms of whether or not the whole thing can be done by a minority and female entrepreneurs.

Lacking that, the second cut has to deal with whether or not the contract can be broken down in such increments that minorities or female entrepreneurs can participate and, lacking that, and there is a third alternative, we have been looking at them in terms of whether or not minority and female operators can participate in joint venture kinds of occupations.

This has been basically the policy in the Department of the Interior for the last 5 or 6 years.

Mr. MITCHELL. Yes.

Mr. CARPENTER. Let me respond to the comment you made, give you some rationale why we look at downsizing as just one of the techniques that can be used.

Assuming that we accept the notion that bonding perenially has been a problem for minorities, if we look deeply at that, we will find that bonding usually is in excess of the financial capacity of

the contractor to become involved based on the size of the bid procurement that he is confronted with.

Approaching that from the downsize perspective, that particular project can be shrunken or sized to be within the capacity of that particular MBE, whether it is black, Indian, or female, and if we succeed in our efforts, and there are indications of reaching the lower 49 on the eastern and western leg that we are becoming more and more convinced about that technique.

It would appear that the bonding problem certainly will not disappear overnight, but at least open up more avenues for increasing the number of MBE's who may participate on the gasline.

Mr. MITCHELL. Thank you.

Counsel?

Mr. CLARK. Two questions, sir.

Mr. Gililand, we heard testimony yesterday from individuals regarding Husky Oil. One of the questions that surfaced yesterday is that Husky Oil presently does not have minority business participation in the contract.

Do you have any knowledge of this? Can you shed some light on that particular comment?

Mr. GORDON. Let me give you a little background, Counsel, on the Husky Oil situation.

I came into Interior in October of 1977 to work as an assistant to Mr. Shelton. A month prior to that, the Under Secretary Joseph received a complaint from the Black Caucus here in Alaska on the Husky Oil problem.

I came here to Alaska in December of that year, 1977, to investigate the lack of minority business commitment on the part of Husky Oil, and also the absence of any specific minority business enterprise goal.

I prepared a lengthy report as a result of that investigation which was directed to the Assistant Secretary for Energy and Minerals within the Department of the Interior.

Since that point in time, by the way, I should say that I am not a minority business enterprise person. I am an Assistant Director for title VI matters but, because of my background in investigative work, I took that project on for the Under Secretary.

Since that point in time, January 1978, special efforts have been made to see that Husky Oil does have a minority business enterprise goal over and above the achievements by the joint efforts on the part of the Arctic Slope and the Alaska general construction contract, which is about $50 million a year, of the $150, $200 million contract.

There is $5 million in the way of minority business enterprise goal that now exists for minorities other than the Alaskan Native corporations.

We view that as a goal that should be directed toward black contractors, Hispanic contractors, and other minority groups other than this huge corporate entity that at one point was considered to be a minority joint venture.

Mr. CLARK. Could you elaborate just a little bit more on the position paper that you prepared attempting to get Husky to improve its minority business goal?

Mr. GORDON. My findings were that they were completely unresponsive and very negative in this regard in dealing with the minority business community. I so stated in that report that I prepared, and made specific recommendations as to the goal, a specific dollar and percentage goal that should be established as of that point in time.

Mr. CLARK. Will you please provide the task force with a copy of that written report?

In addition to that, provide us with specific actions that have been taken relative to your report.

Mr. GORDON. Yes, sir; I certainly will. I will contact the office, the OSDB Office.

[Report referred to above is being retained in the task force files.]

Mr. CLARK. One final question on the Husky Oil problem.

Has Husky received an extension or any contract modification under its original contract since October 1978?

Mr. GORDON. I am pretty sure they have. I am not directly involved, but it is an annual renewal contract. In fact, you may be aware and I am pretty sure that you are aware that the Department had recommended the cessation of that project.

The Congress of the United States did provide the funding for the continuation of the project. Therefore, it is being renewed on an annual basis.

Mr. CLARK. Would you provide also for the task force when there have been dates in terms of modifications of the Husky Oil contract, dates of the modifications and any other pertinent information in that regard?

Mr. GORDON. I will seek that information out and direct it to the task force.

Mr. CLARK. Thank you very much.

[Information requested is being retained in the task force files.]

Mr. MITCHELL. Gentlemen, thank you.

You are our last witnesses, and you will have to sit for just a moment more while you hear my very brief summary of these 2 days of hearings.

It has been a long, hard job and I anticipated that it would be, and I want to thank the members of the audience, some of whom have been here throughout the entire hearings.

We appreciate your interest and your attendance.

Obviously, I cannot make any firm recommendations as of this moment; I have got to study all of the testimony that has come before us, and it is voluminous.

I am reasonably assured, however, that based on these hearings there will be some recommendations in several areas. Obviously, there is a need for some legislation to handle certain types of bonding problems that have been mentioned here.

There is a need for executive action in terms of shoring up or making personnel adjustments within certain agencies where there is evidence that the personnel are not sympathetically attuned with the objectives of the President of the United States.

In these hearings there was a very strong feeling of ambivalence I got from some of the witnesses, a real commitment that it is the intent of the agency that they represent to do that which is good for the growth of minority businesses.

I got from some other witnesses, and more specifically Mr. Cox in the Small Business Administration, a hostile antagonism, which would strongly suggest to me that the comments we heard yesterday from the various minority businessmen indeed have validity and credibility.

It is that kind of mixed value that causes me a great deal of concern. I can only indicate to you that within the next 2 months, hopefully, we will conclude going through all of these voluminous documents and draft recommendations to be made to the subcommittee chairman, under whose aegis this task force falls and also to the full committee chairman.

As of this time, I am firmly convinced, firmly convinced but not inflexibly convinced, that it may well be necessary for me as chairman of the task force to make some specific recommendations to the executive branch, to the President of the United States, with regard to personnel changes.

Those recommendations do not guarantee that these changes will take place. However, I think that they might be of some significance, given the President's commitment to minority business which he has stated time and time again.

It is not the responsibility of the Congress to select personnel to head the agencies or operate within the agencies. It is the responsibility of the Congress when it discovers that there are personnel who seemingly are acting in a fashion inimical to the best interests of minorities to make such firm recommendations to the executive branch of government.

As I have indicated earlier, that is one of the strong feelings that I have as of now, that I would almost be derelict in my duty if I did not make some recommendations in that category to the President of the United States.

All I can do is thank you again for your cooperation. You have been just very, very cooperative for the most part, except for one or two obtuse instances, and it is that kind of cooperation that I think will really act in the best interests of the cause that we are all concerned about, the movement of minorities, blacks and others, into a position of economic empowerment, where we can make further contributions to this country.

Thank you for your participation, and thank you and the audience for staying so long, and the next time I come back it will not be on official business, but I will be accompanied with sufficient protection, just in case that is needed.

Thank you all very, very much.

[Whereupon, at 3:20 p.m. the task force adjourned, to reconvene subject to call of the Chair.]

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